

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 Implementation by the Government of India **(2005)**

The proliferation of illicit trafficking in Small Arms and Light Weapons poses a grave danger to the security of States. Such weapons have disrupted political stability and social harmony, derailed pluralism and democracy and hampered growth and development. They have also fuelled international terrorism and internal conflicts. India therefore attaches high priority 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. The implementation of the UN Programme of Action (PoA) to Prevent Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects is at a well advanced stage in India.

Implementation at National Level

2. In its national report on the implementation of the UN PoA submitted in 2003, the Government of India had provided detailed information about the statutory and administrative framework existing in India for regulating policies related to SALW. This is briefly recapitulated as under.

3. India's domestic policy on SALW is regulated statutorily under the Arms Act (1959) and Arms Rules (1962), as amended from time to time. These legislation and various executive instructions from the Central and State governments have evolved an effective mechanism for 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. A specific distinction in terms of calibre (prohibited and non-prohibited bore) exists in so far as possession and trading in firearms by civilians is concerned. Prohibited bore weapons are generally used by security forces/police and license for these types of weapons are issued to civilians only in exceptional cases. The manufacture of SALW is regulated under a licensing system established by the Arms Act (1959) / Arms Rules (1962), through which the Government 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.

4. All small arms produced/manufactured in India are uniquely marked by stamping, engraving or laser marking to indicate the type/nomenclature of the weapon, registration number, manufacturer / factory of origin and the year of manufacture. Such markings are made 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. The manufacturers are required to keep a record of each and every weapon manufactured along with the information on the concerned dealer/indenter. 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. A record of arms sold in the civilian market is also required to be kept by each arms dealer. These records are regularly checked by the concerned authorities. India follows a strict policy with regard to export of Small Arms and Light Weapons including the requirement for end-user certificates on a government-to-government basis and a ban on exports to countries under UN arms embargo. 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.

5. India has designated the office of Joint Secretary, Disarmament and International Security Affairs Division, Ministry of External Affairs, 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). An Inter-Ministerial Task Force was established in 2002 to provide inputs related to policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in SALW. The Task Force, which meets on a regular basis, comprise representatives from the Ministry of External Affairs and the Ministries of Defence and Home Affairs and the National Security Council Secretariat.

6. The Government of India has also enacted other laws which have penal provisions related to illegal possession, manufacture etc, of SALW.

These include Armed Forces (special powers) Act, Indian Penal Code, the Army Act and the analogous laws, and the Unlawful Activities Prevention (Amendment) Act. The Unlawful Activities Prevention (Amendment) Act, which was passed in 2004 replaced the earlier Prevention of Terrorism Act (2002). Under the provisions of this Act, if any person contravenes any provision of, or any rule made *inter-alia* under the Arms Act 1959, he shall, notwithstanding anything contained in the Arms Act or rules made thereunder would be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine. Furthermore, since 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. Thirty-two (32) organisations had been banned by the Government of India under the Prevention of Terrorism Act (POTA) for their activities, although not all the listed organisations operate in India. These organisations continue to remain under ban under the Unlawful Activities (Prevention) Act (2004).

7. The Government of India thus has a comprehensive and effective mechanism to control all aspects of small arms and light weapons in India. India, however, continues to face the problem of proliferation of illicit SALW and weapons which are smuggled into the country by various anti-national groups. The seizures of illicit SALW, by security forces, from terrorists provide an indicative assessment of the problem they pose. India, in its national report in 2003, had noted that in Jammu and Kashmir and the north eastern areas alone, the security forces had, since 1990, seized approximately 39,000 weapons of all types, whose markings clearly indicated that these were brought into India through illicit channels from outside the country. This continues to pose a significant challenge to the Government. In the last two years, (2003-04), the number of illicit SALW seized or confiscated by security forces in Jammu and Kashmir and in the north eastern areas was more than 4,800. The Government of India remains committed to taking all necessary measures to put an end to such illicit flows. At the same time, the government has also taken effective measures to ensure that the weapons confiscated/seized by security/police forces do not find their way back into the illicit trade channels or fall into the hands of unscrupulous elements. A small amount of crude "country-made" weapons are also found to be produced clandestinely in India. An updated table listing the arms seized/confiscated by security/police forces for the period January-November 2004 is at Annexure I.

Global and Regional level

8. India recognises that close international co-operation is required to prevent, combat and eradicate the illicit trade in SALW. India also holds the view that efforts to combat and eradicate illicit trade in SALW should be seen as an integral part of the international efforts to combat terrorism. Indeed the United Nations Plan of Action has highlighted the fact that illicit trade in small arms and light weapons fuels both crime and terrorism.

9. Considering that illicit trade in SALW is closely linked with terrorism, illicit drug trafficking, money laundering and other trans-national organised crimes, India has taken bilateral and regional initiatives with several number of countries, to put in place arrangements, to enhance cooperation in fighting terrorism which would inter-alia also help in combating the illicit trade in SALW. India has been a victim of the violent crimes committed by terrorists, and recognises the importance of taking urgent, concerted and sustained action at the global and regional levels to ensure that the fight against terrorism is successful.

10. India has supported the efforts of international organisations and the initiatives taken under the United Nations auspices. India has supported the relevant United Nations Security Council Resolutions, including Resolution 1373, and has signed twelve (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. India has also signed the UN Convention on Trans-national Organised Crime and its associated protocols - including the Firearms Protocol.

11. At the regional level, India along with other member states of BIMST-EC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) have established a Joint Working Group to coordinate efforts in areas such as intelligence sharing and capacity building as well as to strengthen joint efforts on counter terrorism and trans-national crime. The First meeting of the BIMSTEC Joint Working Group on Counter Terrorism and Transnational Crime (JWG-CTTC) was held in New Delhi in December 2004, which decided inter-alia to work out programmes of cooperation in areas such as preventing and suppressing illicit trade and trafficking in arms, ammunitions, explosives, and other dangerous materials of terrorist use by land, sea or air.

12. India has also finalised bilateral agreements and mechanisms with several countries, [including with Myanmar (October 2004) and Indonesia (July 2004)] to combat terrorism and trans-national crimes. Such arrangements provide 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.

13. India has been and will continue to actively participate in the work of the Open Ended Working Group set up pursuant to the UNGA resolution 58/241 to negotiate an international instrument to enable states to identify in a timely and reliable manner illicit Small Arms and Light Weapons. Earlier, India had also chaired the Group of Governmental Experts which had recommended to commence discussions on an international instrument to enable states to identify and trace in a timely and reliable manner, illicit small arms and light weapons under UN auspices.

Annex I
STATEWISE RECOVERY OF FIREARMS FOR THE YEAR 2004(JANUARY TO NOVEMBER)

Sl.No.	State/Union Territories	Air Gun	AK 47	AK 56	AK 74	Carbine	Grenade	Gun DBBL	Mouzer	Musket	Pipe Gun	Pistol	Revolver	Rifle	Sten Gun	Total Numbered	Total Unnumbered	Combined Total	
1	Andaman & Nicobar															0	0	0	
2	Andhra Pradesh		1			1		2					2	6		12	85	97	
3	Arunachal Pradesh															0	9	9	
4	Assam			3		1		4				4	3	4		19	0	19	
5	Bihar	2						22	2			4	2	36		68	25	93	
6	Chandigarh											2		1		3	17	20	
7	Chattisgarh															0	86	86	
8	D&N Haveli															0	0	0	
9	Daman & Diu															0	0	0	
10	Delhi															0	558	558	
11	Goa															0	2	2	
12	Gujarat			1												1	169	170	
13	Haryana		1													3	360	363	
14	Himachal Pradesh															0	0	0	
15	Jammu & Kashmir		393	81	1		1					2		6		484	283	767	
16	Jharkhand															0	0	0	
17	Jharkhand															0	3	3	
18	Karnataka								1							1	38	39	
19	Kerala															0	0	0	
20	Lakshadweep															0	1216	1216	
21	Madhya Pradesh								1				6	4	1	12	448	460	
22	Maharashtra					1										3	41	44	
23	Manipur		1	1		1										37	9	46	
24	Meghalaya		3	4			2	4					8	14	2	37	9	46	
25	Mizoram												2	1	1	4	10	14	
26	Nagaland			6		1							1	1	1	10	24	34	
27	Nagaland								8							8	60	68	
28	Orissa															0	5	5	
29	Pondicherry												12	4	3	32	25	57	
30	Punjab					2		10	1				12	4	3	32	25	57	
31	Rajasthan															1	376	377	
32	Sikkim															0	3	3	
33	Tamil Nadu															0	67	67	
34	Tripura			19	7											26	55	81	
35	Uttar Pradesh			1		4		99	1				68	20	35	6	234	2	236
36	Uttaranchal												2	4		6	276	282	
37	West Bengal			6				3		17	865	31	88			1010	239	1249	
	Total	2	418	112	1	8	3	154	4	17	865	142	145	96	6	1974	4,827	6801	