

An Ideal Arms Trade Treaty from India's Perspective

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Summary

The proliferation of small arms and ammunition is a major issue that threatens the security of India. Aspects related to illicit manufacture of local country made guns, smuggling, pilferage from government stocks and a weak monitoring or surveillance mechanisms further complicate the issue. The policy brief examines the nuances of the ATT at an international and national level, and how it would aid India in combating this threat.

Introduction

A major vulnerability of India is the proliferation of illicit small arms and ammunition manufactured overseas, for use by individuals or armed groups operating in over 200 disturbed districts of the country. The threat of proliferation of illicit weapons will also grow into another untapped market: India's young population with its disposable wealth and increasing urbanisation rate.

What then would contribute towards the growth of the illicit small arms problem in India?

- Illicit manufacture of country-made hand guns in a large numbers at small scale industrial manufacturing facilities spread throughout the country. Country-made weapons are also smuggled from across international borders. As several models of locally-made weapons use service-pattern ammunition or use re-loaded fired cases, evidently pilferages in ammunition stocks remains an un-addressed dimension of the problem.
- Losses of arms and ammunition from government stocks as well as losses by armed patrols in counter-insurgency encounters. Thefts from stocks of de-commissioned weapons and from inventories of seized weapons are potential problems.
- Weak inventory surveillance and reporting mechanism, which is not being mandatorily investigated, requires legislative initiative and correction.
- Illicit smuggling of arms and ammunition across India's international borders, with the major ingress routes being Jammu and Kashmir, Maharashtra coastline and the North-East states bordering Myanmar and Bangladesh.
- Small Arms Light Weapons (SALW) of 57 different types have been identified over the past several years. The origin of these weapons have been traced to China, Pakistan, Belgium, Thailand, Russia, United States of America, United Kingdom, Czechoslovakia, Afghanistan, Bangladesh, Cambodia, Myanmar and Israel.¹

Currently, security officials who seize smuggled weapons have no way of tracing their routes into India, in order to identify participants of illicit trade or countries which have weak surveillance mechanisms. In the absence of a legally-binding instrument or an in-ternational treaty on SALW traceability, arms-exporting countries cannot be held responsible when their arms or ammunition finds its way into the hands of human rights violators and war criminals in other countries. The Indian state remains helpless address the smuggled weapons part of the problem.

¹ Prashant Dikshit, "Weaponisation of Indian Society Through Illicit Arms Proliferation Production and Trade", IDSA, New Delhi, p. 12.

The state appears to be in a denial mode vis-à-vis acknowledging the scale of the problem, as indicated by official inaction and apathy to find even partial solutions. Can the Arms Trade Treaty (ATT), which is being negotiated at the United Nations, be one such international instrument that could help countries like India to find, at least, a partial solution to the problem?

The above question would require Indian officials charged with negotiating and shaping the directions of the ATT, to approach their mission driven by humanitarian concerns and increasing threats to its citizens. At the minimum, the humanitarian approach examines potential of reducing human suffering resulting from use of illicit weapons as well as the conduct of unaccountable and irresponsible arms sales. This approach combines the inclusion of scientific initiatives to reduce the probability of diversion of arms and ammunition to illicit markets; increasing the ability of international community to develop mandatory standardisation of un-erasable markings by all weapons manufacturing entities in the world; recording their sales and transit points to detect sources and points of illicit diversion; and, finally, to track and prevent a pattern of such diversions from legitimate arms sales.

The treaty negotiators should build up sufficiently strong public opinion among countries under threat from proliferation of illicit SALW. What is required is that the treaty's provisions enable states to record and trace all legitimately sold weapons in order to track down illegal diversion of weapons that can pose threats to citizens of other parts of the world as well as within their own territories.

In this policy brief, I examine whether the Indian official approach paper for the ATT is progressive and futuristic to develop opportunities that could aim to find common international initiatives to reduce a part of the problem, that is, of illicitly smuggled weapons.²

The first part of this policy brief identifies the significance of the ATT for India as well as the need for Indian diplomacy to take a proactive approach to engage the drafting process of the Treaty. There is a clear possibility that, should the Indian advocacy of its humanitarian concerns remain inadequate, the citizens of this country will find themselves saddled with an international treaty which does not reflect or address the primary threats to their lives.

For the Treaty to be effective, the main problem which concerns most, if not all, states is illicit transfers or sales of weapons by states as well as by non-state actors (NSA) to groups and individuals in other countries. This policy brief by and large reflects this concern.

² United Nations General Assembly, "Compilation of Views on the Elements of an Arms Trade Treaty", July 2-27, 2012, A/CONF2.217/2, dated May 10, 2012, Indian Approach Paper on the ATT Chairperson's Draft, p. 38

Consequently, it identifies specific areas where elements of the ATT draft paper circulated by the Chairman needs to be clarified or amended, although the Chairman's draft does make a fair attempt to address these concerns. Furthermore, the policy brief identifies a process of correction and improvement as experience is gained in this field by parties to the treaty.

It must be understood that the real challenge is to have an ATT that factors humanitarian concerns, and should be accepted by a diverse group of countries with divergent priorities. Thereafter, the officials would have to explain and assist in its implementation processes.

Background Considerations

In the past, Indian representatives have correctly stated India's primary concerns in this area: "India's security interests have been affected by illicit and irresponsible transfers, Especially of small arms, light weapons and explosives. It is now universally recognised that illicit trade in conventional arms is a major factor in armed violence by organized criminals and by terrorists. We have therefore maintained that the priority must be combating and eliminating the illicit trade in such arms."³

However, somewhere along the line, India's position shifted towards state-centric factors and, consequently, neglected its "public safety for citizens" focus. Consequently, the approach of the Indian State on the safety of Indian citizens from individuals and non-state actors using illicit weapons smuggled over the country's borders has remained unaddressed. India's latest position paper on the ATT⁴, has now shifted focus on to state-centric concerns such as onerous official documentation requirements for recording of arms transfers; concerns that the ATT should not prescribe controls on the state's arms trade system; maintaining national autonomy of arms transfer decision-making (despite several illicit weapons of foreign-origin seized in the country); the ATT should balance the obligations of arms importers and exporters; and, finally, that there is no need for an international office to which such violations can be reported and recorded, or a secretariat where weak national controls can be reviewed. It seems that India has decided to neglect public safety concerns of illicit weapons that are being smuggled across its borders.

Considering that SALW are highly vulnerable to diversion, pilferages from state arsenals or copying by non-state actors, this major challenge to domestic security has an international dimension. And that is the diversion of SALW that are bought for legitimate end-use of

³ See <http://www.un.org/disarmament/convarms/ATTPrepCom/Documents/Statements-MS/2010-07-12/12072010-India-E.PDF>.

⁴ United Nations General Assembly, "Compilation of Views on the Elements of an Arms Trade Treaty", July 2-27, 2012, A/CONF.2.217/2, dated May 10, 2012, Indian Approach Paper on the ATT Chairperson's Draft, p. 39.

legitimate national security roles, to illicit purposes. A conundrum is that the states are seen as legitimate actors in international transactions of weapons, but many states do not have broader public or democratic acceptance. The design and implementation of ATT controls also needs to factor in the aspirations and struggles of non-state actors that represent broader democratic interests of the people as opposed to states that are controlled by unrepresentative regimes, which can even become tyrannical. ATT drafting has still to come up with creative ideas in terms of democratic legitimacy questions in states that have unrepresentative regimes.

Another challenge is that states have unequal judicial standards in application of domestic laws relating to illicit weapons proliferation. A politically binding international treaty has to enable states to maintain effective national laws and controls to detect and deter violations of the treaty. In many states, these laws and controls have to be reviewed and updated to reach up to common international standards. Some states may complain of the intrusive nature of such an international treaty, but benefits for all can accrue only if the violations are checked by effective domestic mechanisms established by the state parties.

The ATT obligations are required to have internationally-binding legal criteria, which need to be implemented through domestic legislation. An implementation method can build up effectiveness by developing standardised techniques for recording, unerasable markings and establishing a process for tracing of weapons. This enforcement mechanism has to be supplemented by national legislations on import and export controls, brokering controls, transit and transshipment controls, etc.

As problems of illicit weapons proliferation effects all countries in the South Asian region, India's interest is served by broader participation of all countries, and, more specifically, by all countries in the region, to enhance effectiveness of the ATT. India should engage the ATT to harmonise interests of all countries in the region for creating effective domestic legislation; national implementation processes to strengthen capacities to control, record and trace weapons which are missing from stocks; develop publically verifiable accountability mechanism that prevents diversion of weapons to unauthorised end-users; and develop an efficient national illicit weapons recovery process.

Significance of the Arms Trade Treaty for India

Despite existing legislation in India, the problem of gun violence from illicit small arms has grown instead of abating. It is thus evident that the national laws and procedures prove inadequate to control the problem. An international agreement would help by helping states to review the loopholes within respective national legislations relating to SALW marking, recording and tracing methods. In the South Asian context, there is a need for dedicated attempts by states to prevent losses from government armouries and recover illicit weapons. Security sector bureaucracies tend to assume that problems of illicit SALW will go away once the problem of insurgent movements are solved. In a way, it explains a

lack of political mobilization for victims of gun violence in India; it further explains why the problem of illicit small arms manufacture has grown in the country.

To assuage concerns of states that the ATT may impinge on their sovereign rights, the treaty should obligate the governance structures of the states to carry out accountability checks and stockpile verification procedures to prevent flow of illicit small arms from and across the nation's borders. This should make up for the resistance to effective international verifiable processes for the recovery of illicit small arms or stockpile monitoring and verification.

India is located in an unstable region where controls on small arms proliferation by other states in the neighbourhood are weak. Considering there is easy availability of illicit small arms from across the border, and the fact that small arms are being manufactured in illegal factories in the region, provisions for a strong ATT will converge with India's long-term security and political interests in creating a stable regional order, by helping to address the problem of illicit weapons and armed political violence. This would also have application elsewhere in the region, given that smaller countries such as Nepal and Sri Lanka have faced much stronger threats from insurgent movements, i.e., Maoists and Liberation Tigers of Tamil Elam, respectively.

In terms of India's arms exports to countries with poor human rights records, such as Myanmar and Sudan, its compliance with ATT principles could be open to question. For countries where the application of international human rights and international humanitarian law has been found wanting, continuation of such could become a problem.

If the ATT includes adequate requirements for transparency and accountability, it will benefit India in two ways: one, it will improve its own processes for security sector accountability for stockpile management; and two, it will reduce the risk of diversion to NSAs from arsenals in those neighbouring countries that do not have strong, democratic control of their military sectors.

Indian security concerns relating to small arms and ammunition are primarily three-fold:

- risks of diversion of such arms to NSAs by centres of domestic production;
- illicit manufactures in neighbouring countries and illegal diversion from their arsenals; and
- sales by arms-exporting countries to intermediaries which are then re-transferred to third parties without proper end-user verification or accountability.

The ATT must identify action to be taken by or against the state parties that fail to control the abovementioned risks. India should urgently engage the international community to address these concerns. And, if India continues to engage with the ATT perfunctorily, then in all likelihood the ATT will come into force without having Indian concerns on

board.

According to a representative of the Indian delegation in July 2011, the ATT is indicative of India's shifting position: "...the draft paper seems somewhat vague, to my delegation, in addressing the question of the illicit trade of conventional arms."⁵

Thus the question is: what have the Indian representatives done to gather informed Indian opinion and develop India's position to advance progressive solutions to our country's problem from rising illicit trade of conventional arms?

Indian officials may also be concerned that allegations of human rights violations against its armed forces operating in disturbed areas could prevent transfer of technologies required for the design and manufacture of a new generation of SALW, from being acquired by its military from international sources. A way around this would be for the Indian armed forces and para-military forces being trained in programmes to address these issues: compliance with humanitarian and human rights laws and introducing human security concerns and those of victims of gun violence as well as security sector governance reforms.

Citizen-centric Considerations for Drafting of ATT

It is an accepted norm that states have sovereign rights to acquire weapons from international sources for their territorial defence. But they also have an obligation to ensure that such weapons that are acquired by their security forces, or are in transit, are not diverted to illicit markets or put to illegitimate use against any other state. In this regard, all states should actively co-ordinate international initiatives to identify and track violations of legitimate arms trade.

In pursuit of the abovementioned obligations, weapons-exporting countries, whose weapons are found in illicit trade, must share responsibility and compensation provided to the victims of gun violence irrespective of the territory in which the crime has occurred. In that regard, states which neglect compliance with provisions of the treaty, after having joined the ATT, should be deemed to be trading in illicit weapons and, therefore, debarred from international arms trade.

In order to achieve the objectives of arms acquisition transparency and responsibility, state parties should submit comprehensive national annual reports on international transfers of all arms and ammunition covered by the treaty to an international register, which should

- a) analyse the data and publish comprehensive annual report on losses, diversions or thefts from national weapons stocks and arsenals;

⁵ See <http://www.un.org/disarmament/convarms/ATTPrepCom/Documents/Statements-MS/PrepCom3/2011-July-11/Afternoon/2011-07-11-India-E.pdf>.

- b) publish assessments given by the state authorities on illegal manufacture of weapons in their territories;
- c) enable legislative provisions for national verification of weapons stockpile security; and
- d) provide international support and guidance to state parties in the form of regional training programmes for production of their national reports.

It is extremely important to have an international reporting and regulatory mechanism so as to standardise weapons markings, remove ambiguity and different interpretations in state practices as far as possible. Variations in implementation of the provisions of post-manufacture and imported weapons marking must be reduced to the minimum. This could be done by acceptance of best practices related to post-manufacture and import marking technologies.

A general lack of information and capacity in developing countries could impair such states from implementing provisions of the reporting, marking and regulatory mechanisms. Considering that the need for technical assistance is met through international organisations, more developing countries could be willing to undertake practical measures to implement the ATT markings and reporting requirements. This would help to maintain national arms sales registers that record and check all small arms and weapons held in the public sector as well as those held by private individuals, and their sales and gifts. If there is pilferage from state arsenals or from the state's stocks of de-commissioned weapons, data on such illicit weapons must be recorded in national registers and made available to the neighbouring states upon formal request. In this regard, the legal sales to individuals holding weapons licences can be abused if such individuals sell weapons to non-licence holders. States should be obliged to register all transactions between private individuals. For this purpose, all state parties should maintain a national contact point.

In addition, states should organise specialised agencies to proactively trace, track and seize illicit transfers of weapons to detect and prevent illegal manufacture of weapons on their territory, and to recover weapons lost by individuals and state agencies. All states must organise specialised police bureaus dedicated to these tasks with SALW control task forces deployed in areas that have a high incidence of illicit weapons.⁶ Such a dedicated agency could be in shape of a specially-trained constabulary to investigate, recover and destroy illicit weapons and their manufacturing facilities and prevent unauthorised sales of weapons to and from former security forces personnel. Arming of civilians in border areas and

⁶ Such task forces and their operations could be modelled on the international narcotics control organisations, which require national-level Narcotics Control Bureaus. In the case of India, a specialised agency – illicit weapons recovery agency – should be created on the lines of the proposed National Counter Terrorism Centre (NCTC) for countering terrorism.

disturbed districts must be banned. The state must maintain its monopoly over use of force in its territory.

Regional Cooperation Centres for prevention of illicit weapons transfers must be created to train and build capacities for detection, seizure and reporting mechanisms within the executive branches and the national security sector. The need for this can be gauged by the fact that the problem of illicit weapons proliferation varies in scale and scope from region to region and from province to province within states. For example, in the India-Pakistan sub-region, some districts/provinces are more notorious for manufacture of illicit weapons which end up across the borders in other states, and which contribute to high incidences of gun violence and illicit weapons proliferation.

As Pakistan has been more explicit in its call to prevent, combat and eradicate the illicit trade and trafficking in conventional arms, particularly small arms and light weapons, it behoves India to join its neighbour to the west in its quest to find practical solutions to address this problem.⁷

Whenever an importing state transfers weapons from government stocks to another government or civilian end user for re-sale, the re-assignment marking should be reported to the Central Register to be maintained at the arsenals of the original manufacturer as well as at the ATT Secretariat.

The compliance obligation for original markings should be on the seller and not on the buyer or importer. If a weapon is re-transferred to a third party, then the marking obligation should rest with the re-exporting state. India should move from its current method of engraving markings for the weapons it manufactures to non-erasable marking technologies.

As international assistance is required to develop standardised stockpile security management and verification procedures, its absence allows theft and pilferage to remain unverified within the state's security sector. To ensure compliance, penalties must be identified against states which neglect to check transfers of illicit small arms across their borders. This practical step is important for inclusion from India's perspective as large-scale illicit small arms are being transferred to insurgent groups in India through third countries.

The ATT should have provisions for verifiable destruction of old or de-commissioned weapons as these are likely to leak out of stocks or be sold without adequate end-use control.

⁷ United Nations General Assembly, "Compilation of Views on the Elements of an Arms Trade Treaty", July 2-27, 2012, A/CONF.2.217/2, May 10, 2012, Pakistan's Approach Paper on the ATT Chairperson's Draft, p. 77.

SALW Marking, Recording and Tracing: What Needs to be Done and Why?

Considering that weapons continue to be manufactured illicitly, whether in, for example, Landi Kotal, Darra Adam Khel in Pakistan or smuggled through other countries in the region add to the burden of problems in local policing and local security.⁸ Illicit manufacturing in India or in Pakistan can have as much destabilising effect within their respective territories as they would have across borders. If the states are unable to comply with their public safety obligations, there is a need for international initiatives to be mobilised to address limitations in domestic processes relating to illicit gun manufacture at small-scale industrial facilities in a large number of small towns.

Ammunition Lot Markings, Recordings and Tracing

Even though it is very difficult to assign ownership of ammunition to a stock or group when recovered at the scene of crime, ammunition markings, when combined with thorough international verification of the chain of sales contracts (even if ammunition lots are re-transferred), should be enough to launch an enquiry into the leakages in sources of illicit arms proliferation. Methods for tracing of ammunition lots must begin from markings by the original manufacturer being standardised and made mandatory. Standardised international practices must be designed and adopted to help to identify and follow ammunition lots right from the place of recovery to its original source of manufacture in order to discourage illicit trafficking.

It is important that larger countries in South Asia – India and Pakistan – should lead the way to develop national legislation that obligate the original ammunition manufacturer to mark the identity of the first export recipient of ammunition; thereafter, subsequent re-sales must be recorded in an international tracing registry. Alongwith online book keeping procedures, lot numbering will make it possible to trace the movement of ammunition.

There are two preconditions essential for tracing: (a) the ammunition has been marked according to standardised international practices, and (b) the information relating to the marked ammunition has been recorded and stored in a centralised database, thus enabling tracing to start and evidence can be collected to initiate legal proceedings against all participants in smuggling en route.

⁸ Small arms related domestic policing problems in India include ease of manufacturing handguns (*kattas*) at small scale industrial facilities; lack of dedicated police capacity for recovery and prevention of SALW, such as methods for narcotics control, counter terror organisations etc.; weakness in juridical processes and absence of deterrent punishment for making and transporting illicit weapons; and the absence of disincentives and conversion of illicit gun manufacturing facilities to productive industrial applications of similar value. For a detailed study see Dikshit, 'Weaponisation of Indian Society...', pp. 18-20.

Ammunition markings are not the only means of tracing a weapon. Even a marked ammunition lot could be transferred several times after it was diverted from its original purpose. But markings, combined with thorough analysis of the sales or re-sales contracts, should be sufficient to start an enquiry into the sources of illicit proliferation. Combined with legislated obligations for national-level recording and book keeping, the state parties would be provided with a means of detecting diversions from national stocks. In countries, where surveillance of ammunition delivery personnel are weak, ammunition lot marking could be a valuable back-up method.

Internationally binding and nationally-regulated management of ammunition stockpiles and SALW transfers must develop preventive and pro-active measures to check illegal diversion. It is in India's interest to convince countries that oppose the international practice of marking of SALW and ammunition to strengthen their national stockpile management and verification practices. It is curious that the states that seem most affected by the non-regulation of ammunition also oppose any international controls measures most fiercely.

EDB Engineering⁹, a Belgian company, has developed a process for laser-marking of ammunition. This technology is regarded as revolutionary for the efficient traceability of ammunition. The innovative technique is based on laser technology and can apply a marking after assembly, just before the cartridges are packaged and delivered to the customer. Such a procedure would be impossible with the stamping technique, which, in any case, can be defaced. The armaments industry views this technique as an effective ammunition marking process, which has since been developed for one of the world's leading ammunition manufacturers. EDB has proved that, technically, the identification of each piece of ammunition is a feasible operation and that financially too this laser process may be considered to be acceptable. However, the costs will come down once this technology gets widely spread.

Small Arms and Light Weapons Markings

As micro-stamping and laser marking technology will become widely available, it will enable manufacturers to stamp all the information needed to mark the origin, registration and tracing of ammunition, right from the time of manufacture. The same technologies, with due modification, can be used for marking and tracing of SALW.

International cooperation is required to facilitate access to state-of-the-art technology for un-erasable and unique/standardised markings. There is a need to facilitate developing countries to fully implement provisions on post-manufacture non-erasable marking of weapons to establish the place and date of manufacture of weapons as part of their production process. These non-erasable markings should be of three kinds:

⁹ See www.edb.be for more details.

- Proof marking, which should indicate links with an ATT Central Register that must be maintained at the factories of its original manufacture and at the ATT Secretariat.
- Import marking, for identification of the country and year of import.
- Weapons assignment and export marking, which should identify weapons designed for the country's armed forces, weapons designed for security forces of foreign states, or weapons assigned for sale to private individuals.

The un-erasable laser markings that are required to verify diversion of SALW should describe the year of manufacture, original manufacturer, weapon number, and the identification of the recipient of the arms. The units of armed police and the military also need to have access to facilities of markings as weapons get transferred from one unit to the other. The information must be inscribed deeply enough to prevent erasure of marking history. It should be inscribed at such places on the weapon where average wear and tear would not deface the history of re-transfers. Recording of these markings must be available in national databases and records maintained for a period of 50 years for SALW. The data should be transferable officially to the electronic register kept by the national authorities and specific queries must be responded to if formally requested by international parties to the treaty.

With these developments in standardised international marking of SALW and ammunition, it would be possible to identify leakages and trace illicit transfers as never before. It will plug loopholes in illicit transfers and reduce the burden on weapons recovery policing. In South Asia, it will release resources and increase confidence in the police system to go actively after illicit manufacture within small villages and towns of the country. Once national legislations are made and enforced, it is likely to make the technology cost-effective through a wider international spread and obligatory standardisation of weapon's marking norms.

In-ternational Traceability Instruments

Improvements in domestic legislation and controls on SALW and ammunition would help in identification of illicit delivery and smuggling networks. In absence of a legally binding in-ternational traceability instruments, countries that export SALW and ammunition can avoid responsibility when their arms or ammunition are seized overseas in the hands of criminal gangs or insurgent groups. Related domestic legislation, control and prevention instruments in different countries will lead to effective marking to check illicit arms transfers and smuggling. Many states have an irrational fear of having to account in front of international jurisdictions, little realising the larger benefits to public safety in their countries.

The Indian state should actively engage to encourage promotion of international processes that obligate arms and ammunition manufacturing countries to frame their legislation on marking, recording of data, and a tracing mechanism based on active international cooperation and changing political habits. These steps should be the basis of the

International Instrument for the traceability of SALW and lead to its effective implementation. Even though there would be a political-bureaucratic battle to build up regional consensus in South Asia to abide by regional and international instruments, our diplomats owe this to thousands of innocent victims of firearms in India.

Thereafter, the armed forces and armed police, as part of obligations of the state parties, must annually report losses and recoveries to their respective parliaments. This should include methods of effectiveness of management of marking, recording and tracing for verification of ammunition stocks. The report should explain responsibilities of personnel for marking (on principles of uniformity and clarity) and tracing by recording in a data base. Recording of movement of ammunition (including re-location of stocks, sales and transfers within or between stocks) and independent cross-checking of stock holdings is essential for tracing of illicit trafficking.

International Experience

There are useful examples of counter-measures against illicit proliferation of SALW from Brazil, where a compulsory electronic connection between the databases of the armed force establishments is required with the offices controlling manufacture, imports and exports of weapons and the Brazilian Federal Police, which maintain a centralised information and data on confiscated weapons and ammunition. Previously, a lack of communication and information exchange between these institutions prevented efficient action against diversion and trafficking. The new law also provides for a centralised ballistic information system run by the Brazilian Federal Police, which contain samples of bullets fired from each small arm and light weapon manufactured in Brazil. This should make it possible to identify light weapons used during crimes as well as identifying the origin of ammunition which was legally transferred but since been diverted to the illicit market.¹⁰

The new Brazilian law on ammunition makes it obligatory for the police and the armed forces to have their stampings on bullets and cartridges to be included in their lot numbers. This measure should improve the security of military and police stockpiles, and would enable the police to identify the leakages of ammunition from each of the two institutions towards organised crime. The penalties provided in the law should be sufficiently dissuasive towards arms trafficking, diversion of ammunition, theft and illicit stockpiling of ammunition, illicit manufacture and trading in firearms, and activities related to international arms trafficking.

¹⁰ GRIP Report 2008/9, pp. 11-12. NATO ammunition marking and classification system and the Draft Proposed Model Legislation for OAS countries, and the CIFTA model on the Marking and Tracing of Firearms and Ammunition is available online and could be developed as models.

Recommendations

India needs to take a progressive approach to address the problem of illicit small arms which takes into account humanitarian concerns. This approach aims to provide state parties with a means of detecting diversions from national stocks or from points in transit. In states where the control and surveillance of ammunition-handling personnel are inadequate, ammunition lot markings could also serve as a valuable tool for back-up surveillance against diversion or theft.

In addition, if in due course of time, all countries are obliged to have electronically connect their weapons database and ammunition manufacturing entities, the details of losses by units under their Ministries of Defence and the armed police units under the Ministry of Home Affairs; traceability of diverted weapons will then be easier. But the Indian paper is conspicuously silent on much needed aspects of public safety. Fortunately, there is a view that advocates ATT to take humanitarian concerns into account. The least Indian diplomats can do in New York is not to obstruct such advocacy and abstain from criticising progressive ideas, as the Indian public certainly does not want a still-born or an ineffective arms trade treaty.