



SPORTING ARMS AND AMMUNITION MANUFACTURERS' INSTITUTE, INC.

SINCE 1926

**MINORITY REPORT
SUBMITTED BY
THE SPORTING ARMS AND AMMUNITION MANUFACTURERS'
INSTITUTE
IN RESPONSE TO DRAFT
INTERNATIONAL SMALL ARMS CONTROL STANDARDS
PROMULGATED BY THE
UNITED NATIONS COORDINATING ACTION IN SMALL ARMS**

When the Sporting Arms and Ammunition Manufacturers' Institute ("SAAMI") joined the United Nations Coordinating Action in Small Arms (CASA) as part of that body's effort to establish International Small Arms Control Standards (ISACS), it did so for two primary reasons. The first of these was to ensure that the process by which the International Small Arms Controls Standards were drafted, evaluated, and set were in accordance with widely accepted standards-setting protocols. SAAMI has been a standard-setting organization since its formation in 1926 and is an American National Standards Institute ("ANSI") accredited and rigorously scrutinized standard-setting organization. SAAMI is respected both for its expertise and for the careful methodology by which it has established standards of common understanding, clarity, and consensus relating to small arms and ammunition design.

The second reason SAAMI joined CASA as part of evaluation of ISACS was to provide critically-needed factual expertise to what are often the highly technical and complicated logistical issues being addressed by the core ISACS modules.

The Process

SAAMI's experience during the ISACS standard-setting process has validated its belief in the importance of both of its reasons for involvement. Unfortunately, this validation has occurred in part because throughout the course of the ISACS process SAAMI has witnessed, objected to, and seen advance significant breaches in standard-setting protocols.

These breaches in protocol have included:

1. Unwillingness to credit all input equally, resulting in refusal to consider opposing views.

By one count, 65% of comments provided by the Expert Reference Group to the ISACS drafters have been ignored, sometimes with comments that the opposition viewpoints were rejected simply because others did not like the resulting effect on the standards to be prepared.

Example: When several commentators documented the positive and tangible social benefits that can be gained from organized youth target shooting programs (such as closer interaction with family members and peers, building of confidence among participants, increased exposure to outdoor activity, etc.), inclusion of such comments was expunged from any ISACS drafts because “UNICEF could not support messages about guns being a recreational and useful thing for children and youth, together with the issue of lawful use, etc. The same goes for safe handling messages dealing with arms.”

2. Stating universal rules for the inclusion of input but failing to employ those rules on an even-handed (namely, if the result did not support the small arms control stipulation being sought) basis.

Example: For ISACS Module 03.30, Draft 2.0 (“National Controls Over the Access of Civilians to SALW” [Small Arms and Light Weapons]), when one commentator pointed out that “Levels of civilian ownership are not related to levels of armed crime” the drafters of the document responded that “[g]iven that these standards are global, research results that are not global in nature are not specifically referred to.” Elsewhere in the ISACS modules, however, reference is frequently made to local issues involving firearm misuse (for example, in unstable conflict zones) as a justification for restrictions being sought, without acknowledgement that such misuses are also local or episodic in nature; while at the same time ignoring that equally local or regional examples of safe and extensive ownership of firearms exist. (See, for example, evidence that in Switzerland or, in the United States, in states such as Vermont and Idaho, firearm ownership is widespread without causing heightened criminal misuse.)

3. Revealing unsubstantiated and provocative editorial bias during the drafting process that impairs the integrity of the process and is thus likely to hinder serious, balanced discussion.

Example: As stated by one drafter, “In some countries, especially the U.S., dealers routinely [emphasis added] look the other way when selling weapons to someone who by all accounts presents [sic] a risk.”

In fact, instances in which a firearm dealer in the U.S. knowingly sells or provides a gun to an illegal customer (called “trafficking”) are rare. A felony,

prosecutions for such misconduct seldom occur, with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives stating that less than 0.04% of licensed dealers are prosecuted for any criminal offenses, let alone trafficking. Criminals confirm that firearm acquisition in this manner is not likely, with almost all firearms being obtained for criminal misuse coming from theft, from a friend or family member, or from non-criminal purchase (when, for example, the criminal acquires a firearm prior to having committed criminal acts).

This drafter's comment also ignores the fact that any person acquiring a new firearm in the United States may do so only after passing a background check conducted by the FBI. The evidence that criminals do not typically acquire firearms from licensed dealers for purposes of immediate misuse is further supported by the fact that, when a firearm retrieved from a crime scene is traced to its original sale by a dealer, the average amount of time that elapses between original sale and the trace is over eleven years.

4. Where objections were made that were accommodated by changes in text, such a change was often made by simply converting a mandatory requirement into a discretionary one without rescinding the unjustified or false premise upon which the original stipulation was based.

Example: Where objection was made that it would be completely unreasonable to demand retroactive marking of millions of firearms already in civilian hands the drafter agreed, stating "Concur and this is not the intention of the paragraph. The retroactive marking of weapons has been rejected by the international community." Notwithstanding this comment, ISACS Module 05.30, Section 4.1.1 requires that each small arm be marked five separate times during its service life (at manufacture, at import, at transfer to civilian use, at confiscation, and at deactivation).

5. The comment periods provided after release of each complex, extensive and multi-page Module were often so time-constrained as to appear to have been staged purposefully in order to avoid careful analysis and input. In all, 22 ISACS modules totaling more than 791 pages have been released (sometimes in multiple versions per draft) in the past year and a half for comment in this manner.

Examples:

a) Module 02.30 ("Small Arms and Light Weapons Control in the Context of Security Sector Reform") was released for comment on August 25, 2010, with input requested only eight business days later.

b) Module 05.40 ("Voluntary Collection of Small Arms and Light Weapons") opened for review on February 22, 2012, and Module 04.20 ("Designing and Implementing Community Safety Programming") opened for review 5 days later on February 27, 2012, leaving little time for a review of either module.

Results Obtained from the Process

The net result of these breaches in standard-setting protocols has been the creation of numerous drafts of alleged small arms “standards” that are, in fact, not standards at all as that term is understood by standard-setting organizations. Instead, the resulting modules have the characteristics of opinion pieces passing under facade of being carefully-considered, broadly-recommended model legislation.

The impacts that come from this deception are numerous. For one, the credibility for honesty and intellectual neutrality and rigor of the institutions that have allowed them to occur—including the United Nations—is at stake. That being said, if the end result of the defective standard-setting protocol had been that somehow widely respected, accurate and compelling modules had been created, the risk of the defective protocols by which they were prepared would be lessened. Unfortunately this is also not true.

By circumventing careful debate and by ignoring contrary points of view the drafters of the ISACS modules have either willfully or ignorantly embraced judgmental and factual errors that defeat the credibility of the end product and the role of those involved in its preparation.

Those errors are too numerous to list in detail in this Minority Report but include, without being limited to, the following:

1. The Modules would require that the Director or Corporate President of a firearm or ammunition manufacturer must be capable of manufacturing (ISACS 03.10, Section 4.3.3). This stipulation is stated without explaining why that expertise is required for someone in an executive position, why manufacturing expertise by a company executive is relevant to small arms control, or why entrepreneurs and executives skilled in the creation of jobs and management of business operations and/or corporate financial matters should be excluded from practicing those skills because they cannot operate a lathe or drill press.
2. The Modules call for small arms or ammunition manufacturing licenses to be withheld unless the applicant proves their ability to protect State secrets (ISACS 03.10, Section 4.4.2). Why this is relevant or needed is not explained.
3. The Modules call for purchase and use of fixed and/or mobile x-ray or gamma ray scanners at border crossings in an attempt to detect small arms smuggling (ISACS 05.60, Section 9.2.3(d)) without considering the cost and relative effectiveness of such.
4. The Modules would require that sport shooting associations only exist if licensed by the State, thus precluding numerous amateur, informal or local involvements in the sport. (ISACS 03.30, Section 7.2).
5. The Modules require that an importer mark a small arm with a serial number unique to the importing country. (ISACS 05.30, Section 4.3.2(c)) What this Module does not

explain is how an importer can know what serial numbers are being used by other importers or by domestic manufacturers within their country since no mechanism for gathering and disseminating this information, either globally or locally, exists.

6. Since almost any shipment of small arms could be at risk of theft or simple shipping error, the Modules would effectively prohibit almost all small arms shipments by calling for denial of a firearm shipment if “there is a clear risk that the transfer could be diverted before reaching the authorized end-user.” (ISACS 03.20, Section 5.4.4(f)).

7. The Modules bar the subsequent resale, gift, bequest, or reshipment of a firearm by requiring shipment only if an end-user certificate is in place that restricts possession to the first stated end-user (ISACS 03.21, Section 6.2.5(f)). The Modules then void this prohibition by allowing groups to receive and dispose of firearms within the group (ISACS 03.21, Section 2.3.1) but does not give the same rights of transfer to disaggregated individuals. At the same time the Modules ask that an original small arms shipper not allow subsequent re-export of those products without explaining how the original shipper would be able to monitor and enforce such a restriction given that the re-shipment would now be initiated in a foreign country, outside the control of the shipper and possibly at a date decades after the original shipment. (ISACS 03.21, Section 6.2.5(f)(3))

8. The ISACS Modules set restrictions now for small arms and light weapons control, but does not call for research into the advisability of such restrictions. Surveys are intended to support implementation of these preconceived small arms and light weapon control initiatives, rather than evaluating the need and/or advisability of these initiatives. (ISACS 05.10, e.g. Section 5.2.2)

9. The Modules required that “vulnerabilities in an individual’s life” be examined if that person is hired at a facility where small arms and light weapons are kept. Such “vulnerabilities” include divorce and changes in sexual orientation. (ISACS 05.20, Sections 9.7(b) and (e)). The Module does not explain what is to be done after such “vulnerabilities” are examined.

10. The Modules fail to acknowledge or protect firearm access for hunting, skeet shooting, trap shooting, pistol and rifle shooting, and other shooting sports unless such activities “are part of the Olympic Games. . .” (ISACS 03.30, Section 3.1, read in combination with Sections 6.2.2, 7.1, and 7.2).

Lest readers of this Minority Report reach the assumption that these examples were distortedly construed or discovered only after a narrow and painstaking reading of the Modules, the following additional examples of errors in fact, logic, or judgment from the Modules should provide a sense of the extent to which such issues are replete in the documents:

1. Requests a “Certificate of Good Conduct,” a medical certification, and fingerprints for every employee of an ammunition or small arms manufacturer

(ISACS 03.10, Section 4.4.1) without explaining what is required to obtain such a certificate or medical certification, without considering the costs of implementing this requirement for the tens or hundreds of thousands of people worldwide involved in making ammunition or small arms, and without explaining why such extensive and onerous stipulations justify the costs (both to companies and to the Governments) involved.

2. Suggests that firearms be tracked by the country authorizing original shipment, to whoever delivered, even if decades after initial shipment, without considering the cost or feasibility of doing so and without explaining the benefit gained thereby. (ISACS 03.21, Sections 7.3 and 7.4).

3. Asks that a firearm “not exist” where children are present (ISACS 03.30, Section 8.6) without explaining why this prohibition is necessary if firearms are kept locked. The Module also fails to define what is meant by “present” (for example, in the same room, apartment, house, building, etc.?) nor does it describe how to enforce this prohibition if, for example, children visit a grandparent who keeps a firearm for self-defense or hunting.

4. Prohibits hunting or participation in shooting sports unless someone is 18 years of age or older (ISACS 03.30, Section 8.8.2(h)), thus providing young men and women in many countries with the opportunity to first touch a firearm on the same day they can be conscripted into combat service by their national government.

5. Asks for markings on small internal parts without considering that such markings could weaken, damage, or render such parts unsafe or whether room would exist on the part for the markings to fit (ISACS 05.30, Section 4.2.1.1.3(d)).

6. Asks that firearm records be kept, potentially forever, without considering the cost in terms of storage, archiving and access to such records and without explaining the benefit for doing so (ISACS 03.21, Section 9).

7. Requires a license for civilian possession of a small arm (ISACS 03.30, Section 8.4.1), meaning that someone attending a hunting or shooting event must also have a license before they can touch or borrow another person’s firearm, even if under supervision, at the event.

8. Prohibits purchase of a firearm for self-defense during times of urgent national or local crisis (ISACS 03.30, Section 8.4.3).

9. As noted previously, requires that each small arm shall be marked five separate times during its service life (at manufacture, at import, at transfer to civilian use, at confiscation, and at deactivation) (ISACS 05.30, Section 4.1.1). How firearms that have already been heat-treated to improve durability can be marked after

heat-treatment is not explained, nor is the benefit of marking a small arm because it is being destroyed explained.

10. Asks that individual rounds of ammunition be marked without defining what markings to apply or why marking of a round will reduce criminal misuse (ISACS 05.30, Section 4.1.3).

11. Calls for marking of “parts and components that are essential to the operation of a small arm” without appearing to realize that almost all components of a small arm (trigger, hammer, springs, pins, barrels, slides, cylinders, sears, etc.) are essential to the operation of the small arm (ISACS 05.30, Section 4.1.2).

12. Would, if ISACS 05.30, Section 4.2.1.1.1(i) was implemented and enforced, restrict the sale and transfer of small arms from civilians to State agencies if the firearm was originally made for civilian ownership. Why a civilian providing a small arm to their Government would increase safety risks is not explained.

13. Calls for designation of markings based on a global number of manufacturers not to exceed 4 digits, of model codes of only 2 digits, and a serial number of only 5 digits (ISACS 05.30, Section 4.2.1.1.2) without explaining what to do if the number of manufacturers, models, or numbers of firearms produced exceed these limits.

14. Requires that a national gun registry be kept in each country without considering costs and without quantifying the benefit of doing so (ISACS 03.30, Section 8.7).

15. Calls for border controls (ISACS 05.60, Section 8.3) without considering the extent to which such are inconsistent with regional (for example, European Union) practices to the contrary.

16. Recommends potentially expensive licensing (both for the producer and for the licensing body of the Government involved) for the production of components even if these components have (for example, as with pins and springs) no possibility of risking public safety in and of themselves or even in combination with other components at the subassembly level (ISACS 03.10, Section 4.1).

17. Calls for licensing authorities in each country to maintain records of its licensed manufacturers. (ISACS 03.10, Section 4.2.2.1) The experience of SAAMI members is that these records can potentially total millions of pages per manufacturer. With thousands of small arms and ammunition manufacturers throughout the world the net effect of this requirement would be massively costly without a clearly articulated and agreed-upon benefit.

18. Calls for medical certification of the mental stability of those who wish to manufacture small arms or ammunition (ISACS 03.10, Section 4.3.4(b)) without

describing by what standard such stability (the actual ISACS language is that the person be “of sound mind”) is judged and without considering the costs of implementing such a provision for the hundreds of thousands of people involved in such production processes worldwide each year.

19. Would allow a manufacturing license to be suspended and the company that held the license potentially put out of business (due to the cessation of income) based simply on the question of whether an investigation into whether the manufacturing license had been violated by that company has been initiated (ISACS 03.10, Section 4.7.2).

20. Asks that manufacturing licenses be renewed each year (ISACS 03.10, Section 5.2) without explaining why such frequent renewals are needed and without considering the bureaucratic and commercial costs involved.

21. Asks that every employee in an ammunition manufacturing facility be eligible to possess a small arm (ISACS 03.10, Section 6.7) without considering the cost to verify such eligibility or without explaining why such a stipulation is needed when the people involved do not necessarily either own or possess a firearm.

22. Asks that criminal penalties be used if an ammunition manufacturer or the maker of pins and springs and other small components for a small arm fail to mark their product (ISACS 03.10, Section 8.1(g) and (h)—with reference to 05.30, Sections 4.1.2 and 4.1.3).

23. Would require that manufacturers ensure that their facilities are “in accordance with International Labour Standards.” (ISACS 03.10, Section 4.3.2) Irrespective of the relative merits of this requirement (and aside from the implication that, if adopted, the ISACS Modules would thus establish by administrative fiat—and without allowance for deviation—requirements that various governments may not yet have adopted through democratic or sovereign debate), what is not explained is what those labor standards are, how manufacturers throughout the world will know what those standards are, nor why this requirement is relevant to small arms and light weapon controls.

Conclusion

SAAMI joined the ISACS project with the expectation of finding or ensuring therein a standard-setting process that utilized intellectually rigorous, fact-based protocols and that welcomed all points of view for the purpose of defining mutually-agreeable and, in fact, unassailable conclusions. What SAAMI found instead in the ISACS process was a methodology that ignored contrary opinions and appeared intentionally to use procedural devices to quell debate. By doing so, the ISACS drafters have done themselves a disservice and have negatively affected the credibility of all parties involved. In addition,

the resultant ISACS modules achieve nothing more credible than could be accomplished by a pamphleteer passing out personal opinion leaflets or by an Internet blogger sharing with others his or her opinions.

SAAMI's reputation for professionalism, integrity, and factual expertise is such that it cannot allow its name to be associated in an approving way with the ISACS modules. In fact, at this point, even if the errors in judgment in the ISACS process and work product were corrected, SAAMI would not be able to endorse the corrected product since the entire process and result to date has been so tainted by the prejudices displayed by its drafters and by their adherents. In other words, ISACS is now irremediably tarnished by the process through which it was created.

SAAMI has been compelled to prepare this Minority Report to highlight the intellectual abuses integral to the formation of the ISACS draft modules and to make clear that SAAMI's role in ISACS is now that of an objecting party. We regret having to take this extraordinary step and we do not do so lightly but we are compelled by the abuses described and the result achieved to remonstrate against what might, to unwitting readers of the ISACS modules, be construed as the result of careful, balanced, and considerate discourse. The ISACS modules should not be viewed favorably and the abuse by which they were created has invited SAAMI's response.

Respectfully submitted,

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SAAMI was established in 1926 at the request of the United States government to create technical standards for safety, reliability, and interchangeability in the design, manufacture, transportation, storage and use of firearms, ammunition and components. For more information visit www.saami.org or you can reach us at:

Sporting Arms and Ammunition Manufacturers' Institute, Inc.
11 Mile Hill Road
Newtown, CT 06470-2359 USA

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