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23 February 2015

Dr. Patrick Mc Carthy, Coordinator  
International Small Arms Control Standards (ISACS) Inter-Agency Support Unit  
United Nations  
405 E. 42nd St., Office S-3145,  
New York, NY 10017, USA

Dear Dr. Mc Carthy,

My name is Jeff Moran. We spoke a few times and traded email in the spring of 2013 regarding the UN International Small Arms Control Standards multi-stakeholder initiative (ISACS MSI).<sup>1</sup>

I am sending this note for three reasons. First, I want to respond to the recent comments submitted for the draft ISACS 3.30 version 3.1 (National regulation of civilian access to small arms and light weapons).<sup>2</sup> I've been reading some of the comments provided to you on this and felt that now is the time to convey some feedback of my own on the draft and to also offer some explanations for why there seems to be such a negative response from the minority stakeholders in the Expert Reference Group (ERG).<sup>3</sup> Second, I'm writing this note to also request, through you to your superiors, that ISACS work temporarily cease and desist pending an internal policy compliance review. On this I've been in consultations with competent UN authorities and have been asked to follow-up with documentation calling attention to specific ethics and misconduct issues. Third, this note is to serve as an advance copy of some high-level findings and conclusions from my independent research into the planning, coordination, and execution of the ISACS MSI, which were also submitted earlier this month in thesis form to complete the requirements for my executive graduate degree at the Geneva Academy. Detailed findings and conclusions will be made public eventually, pending my preparation and submission of materials to the authorities mentioned above.

In full disclosure, I am an American citizen. I have also been an independent consultant and advisor specializing in the defense, security, and shooting and related sporting industries. This has been my focus for nearly 9 years since leaving my role as a strategic business development and marketing leader at a leading publicly traded American aerospace and defense company. I am also an interested party to the ISACS and other MSIs, and have directly engaged interested parties in international normative<sup>4</sup> processes since arriving in Geneva in 2011. For the past few years I have been informally cooperating with various governments, industry, civil society groups, and the international small arms control epistemic community. I will receive my executive

graduate degree in international law from the Geneva Academy of International Humanitarian Law and Human Rights this October. I have already received my executive master in international negotiation and policy making from the Graduate Institute in 2012. I have an MBA from Emory University, and a Bachelor of Science in Foreign Service from Georgetown University. In prior lives, I was an analyst at a leading global management consultancy and a US Army intelligence officer and special projects attaché. Just so you know I have also from time to time exchanged views and information with members of your ISACS ERG and various draft authors/consultants, including but not limited to Mr. Mark Bromley of SIPRI, Ms. Sarah Parker and Mr. Glen McDonald of the Small Arms Survey.

Before I get into the draft standard and then provide my take on the main reasons for the strong opposition by the minority of the ISACS MSI ERG, I wish to refresh your memory about our first contact and my first impressions. The intent being to put this letter into some context for you and for others who may later read this letter. If you recall, we were introduced by email<sup>5</sup> in 2013 by a mutual colleague who leads a UN-accredited industry-affiliated group in the minority of the ISACS MSI ERG. He introduced me as an interested party and business consultant who was also studying international law in Geneva. He referred me to you because, and to my surprise, he and his industry group were unable to answer even the most basic questions about the ISACS MSI. He thought I should, in theory, have better luck getting the information I needed by contacting you directly. This was surprising to me because the ISACS MSI got its informal start in 2007 and became formalized in July 2008, and I assumed (wrongly) there was a full and transparent exchange of information among all ISACS stakeholders represented on the ERG.<sup>6</sup> Specifically I had questions about accountability, governance, process controls, and the status of various ISACS modules under development.

At the time I reached out to you, I was taking international weapons law courses taught by Dr. Stuart Maslen of the Geneva Academy, who has been affiliated with your MSI as an “Independent Consultant on Humanitarian Affairs” according to official ISACS documents.<sup>7</sup> I was actively developing the direction and focus of my academic thesis work then and also trying to get my head around the ISACS MSI as a specially affected stakeholder. While I was thankful for the brief time we spoke on the phone, my impression was that you were evasive and your answers were at variance with documents you published for internal use, which I had in my possession at the time. Ultimately you became plainly dismissive of me and my stakeholder interests, goals, and concerns after I emailed you the same basic questions minority members of your ISACS ERG were unable to answer. As it panned out, you ultimately never responded to any of my questions and I decided to move on to other sources and methods of research.<sup>8</sup> Your non-responsiveness and disregard motivated my own private investigation into various legal aspects of the ISACS MSI. A preliminary output from my academic work was published a few months later in the 2013 Journal of Firearms and Public Policy.<sup>9</sup>

I have come to learn through nearly 18 months of subsequent independent research that your dismissal of me and my interests was more or less a standard operating procedure consistent with obtained internal project plans. These plans spell out structural mechanisms to marginalize those disagreeing with your personal views and the views of other approving officials in sponsoring organizations, namely the UN Development Program (UNDP). My review of over six years of documented history have shown that the UNDP (your employer, the dominant ISACS stakeholder, and an official final approver of ISACS) has self-servingly championed (through you as a its conflicted MSI coordinator) its own advocacy guidelines for national legislation on small arms published in July 2008, the same month CASA formally launched the ISACS initiative.<sup>10</sup> Given the

apparently coordinated timing of the UNDP publication and the formal launch of the ISACS MSI, and the remarkable congruence of this UNDP document with the eventually announced ISACS module framework, it is plain this rather unscientific and explicitly aspirational advocacy document has served as a de facto ideological policy baseline for many of the ISACS outputs, and the draft 3.30 output in particular.

Public feedback from minority ERG stakeholders confirms that conformance to the aims and goals of the 2008 UNDP advocacy document and its questionable if not completely invalid assumptions have apparently been a de facto litmus test when determining which stakeholders to listen to and what academic research to accept as valid inputs to the ISACS drafting process. The cumulative effective of this feedback filtering, and the your conflicted efforts to serve the interests of your UNDP employer, has fatally undermined the normative credibility and legitimacy of the ISACS MSI, and by extension, has injured the Office of the UN Secretary General.

All of this, *inter alia*, has become a compelling issue personally and professionally to many interested parties who have come to understand a lot more about how normative UN-sponsored multi-stakeholder initiatives are actually supposed to work, and how UN employees like yourself are actually required to behave in the conduct of their duties pursuant to the UN Charter, the UN Oath of Office, the Standards of Conduct of the International Civil Service, and UN Staff Rules and Regulations, and UN Core Values and Competencies.

Now, before going any further, permit me to briefly turn to the draft ISACS 3.3 version 3.1. On this, I respectfully request you withdraw this draft, and rework it further as the situation permits, as you did previously in 2011.<sup>11</sup> It appears obvious to many that this latest version is no less controversial and arguably is more controversial than the previous one, so withdrawing it is widely expected by industry and stake-holding civil society groups on this basis alone, assuming of course you are as sensitive to concerns about significant opposition today as you were in 2011.

Moreover, it appears the ERG lacks qualified representation of the interests, goals, and concerns of the private security services industry, an industry that you should know is quite distinct from those represented in the ERG at this time. As specially affected stakeholders, private security industry representatives would no doubt take great interest in an opportunity to comment on this draft. I therefore recommend you contact the International Code of Conduct Association (ICoCA) in Geneva to recruit possible candidates for the ERG and reopen the comment period to them if these stakeholders haven't been otherwise approached.<sup>12</sup> If these stakeholder have not yet been approached, the situation appears to be yet another delegitimizing instance of the exclusion of specially affected stakeholder views from the ISACS development process. Having said this, if you like I can put you in contact with elected industry representatives affiliated with this association. But I would prefer you to contact Anne-Marie Buzatu of the Center for the Democratic Control of the Armed Forces (DCAF). I have been working with her and representatives of this association in the course of my academic and professional work and am confident she can quickly help you obtain what the ERG needs.

Coincidentally, you should know my thesis involved comparing and contrasting the UN ISACS MSI with the Swiss-led International Code of Conduct (ICoC) MSI, which ultimately lead to the formation of the ICoCA mentioned above. And I would like to put on the table an offer to eventually detail in depth (for you, your ISACS MSI sponsors, and the UN Secretary General ideally, at my own travel and lodging expense) the numerous ways the UN ISACS MSI could learn from the Swiss-led ICoC MSI, which was expertly coordinated by the

unquestionably neutral, independent, and principled Ms. Anne-Marie Buzatu.<sup>13</sup> I have already begun preparing several customized presentations in anticipation of further cooperation with UN representatives so a special presentation to you and your sponsors would be no great additional sacrifice of my personal time. The presentations so far have lists of conclusions and tailored recommendations...I already have a list for ISACS MSI sponsors and the UN Secretary General sketched out. Now, having put this offer on the table, I would now like to offer the following five points with regard to certain elements of the latest draft standard:

1. The current draft lacks language affirming the legitimacy of firearms in civilian hands for the purpose self-defense. This language was in the previous draft from 2011.<sup>14</sup> It's troubling that this language is now missing given prior feedback on this matter and the lack of explanation or consultation with minority ERG stakeholders since. This seems to serve as another confirmation of the presence of alarming ethical and governance defects. This appears to be part of a continuing pattern of ISACS activity and individual behavior undermining your credibility as the ISACS MSI Coordinator, the validity of ISACS MSI outputs in general, and injures the reputation of the Office UN Secretary General and the United Nations as a whole.
2. The removal of language affirming the legitimacy of firearms in civilian hands for self-defense is substantially unacceptable on the grounds it is, *inter alia*, disrespectful and prejudicial to the American national constitution, numerous American state constitutions, entire frameworks of long-established federal and state regulatory code and legislation, salient aspects of American culture, and the interests, concerns, and goals of the broader shooting and security industries in addition to the 62% of the Americans (198 million people) who believe having a firearm at home for self-defense makes them safer.<sup>15</sup> The removal of said language is also unacceptable in light of the undisputable fact that the personal right to self-defense is a first principle of international law, a key block in the foundation upon which the modern skyscraper of international law has been built.<sup>16</sup>
3. The removal of language affirming the legitimacy of firearms in civilian hands for self-defense also creates the impression that you, your drafter, and/or your MSI sponsors have constructively breached, in an organized and coordinated manner, UN Staff Regulation 1.2 para a.<sup>17</sup> This regulation states that UN staff must "exhibit respect for all cultures; they shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested."
4. Other language contained in the draft is also unacceptable for precisely the same reasons. For example, provisions requiring firearms be locked in storage containers when not in use squarely conflict with settled law of the United States. Such a global governance policy prescription in the form of a normatively diffusible work of model legislation or regulation, however well intentioned, is in fact locally unconstitutional on its face given the US Supreme Court decided on this very issue in the 2008 Heller decision.<sup>18</sup> That the ISACS MSI, a normative undertaking designed to be a "powerful strategic and operational instrument of [small arms and light weapons] control,"<sup>19</sup> overlooked this major firearms policy court case confirms again the presence of serious ISACS MSI defects with respect to, *inter alia*, inclusion of relevant legal and other normative inputs and points of view, methodology, subject matter competence, and quality control. Inclusion of this provision furthers the reasonable basis for observers to draw adverse inferences about your intentions, the intentions of your drafter, and the intentions of your UN MSI sponsors. Specifically, such a gross oversight creates an indelible impression on its face that you collectively possess a breathtaking disregard for, if not discriminatory animus towards, the

interests, goals, and concerns of United States, its culture and constituent branches of government, and the citizens to whom the United States government is ultimately accountable.

5. Another unacceptable element of your draft standard for the same discriminatory reasons relates to the total and categorical prohibitions on civilians “acquiring, owning or possessing” light weapons and automatic small arms. A few points on this.
  - a. Long-standing federal law in the United States allows certain specially qualified civilians to acquire, transfer, and possess and use certain light weapons and automatic small arms subject to very strict controls. These laws were first established in 1938.<sup>20</sup> And according to the best knowledge of the American non-profit association representing the interests of individuals and organizations specially credentialed to collect and use some of these weapons, there has never been a violent crime committed by any appropriately credentialed person using light weapons and automatic small arms.<sup>21</sup> The basic reason for this is that the weapons themselves are quite expensive and collectible. This in turn motivates individual credentialed owners to take extra precautions to ensure they don’t run afoul of laws which rightly would lead to expensive property forfeiture, fines and prison time.
  - b. With this in mind, the prohibitions the draft seeks to normalize globally in the form of “international small arms controls standards” are clearly arbitrary and capricious on their face in the context of the United States legal system, and also suggests a profound insensitivity to and disregard for US domestic political and legal affairs and the interests, goals, and concerns of specially affected corporations, and private individuals. Given the obvious intent for this ISACS to be normatively diffused transnationally, through perhaps self-executing regulatory and/or judicial action, if not legislative action, such language amounts to a strategic but nonetheless potentially effective prohibited intervention into the domestic national political affairs of the United States, and the affairs of American corporations and private citizens.
  - c. If one makes an adverse inference of intent, which doesn’t seem unreasonable given public statements indicating your private views in opposition to industry and to accepted norms of international standards development, obtained internal ISACS MSI documents, and already public and yet to be released items calling attention to misconduct, it would seem as if you, your drafter, and your ISACS MSI sponsors have collectively and constructively abused your positions as actual or de facto international public authorities to effectively “prejudice the positions of those [you personally, and you collectively] do not favor.” Such individual and coordinated discrimination and abuse of international public authority appears to specifically be prohibited under UN Staff Regulation 1.2 paragraphs g. and a.<sup>22</sup>

Now, having hopefully made the above points clear, I would now like to now offer some insight into why the opposition to this standard in particular seems to be so intense, and why some members of the ERG (and indeed some Member States of the United Nations) have simply lost all trust, faith, and confidence in the validity, integrity, and credibility of the ISACS MSI, and you personally as its Coordinator. The short explanation is that that several years of collected documents, statements, emails, and audio recordings, etc. strongly indicate, where they don’t conclusively confirm, that the ISACS MSI generally, and you, your authors, and MSI sponsors specifically, improperly, and shamefully compromised on three sets of normative principles in the “ambitious”<sup>23</sup> pursuit of various international normative instruments of small arms control. As a result, the

growing perception is that the originally well intentioned ISACS MSI has been corrupted and transformed into an organized enterprise of professional misconduct. I now call your attention to the three sets of compromised normative principles:

1. Customary principles of international standards development,<sup>24</sup>
2. UN principles of effective MSI governance,<sup>25</sup> and
3. UN principles of professional and ethical conduct.

Very obviously to the minority stakeholders, and to me as a reasonably informed and stake-holding observer, the ISACS MSI has failed to conform to three of the four customary principles of international standards development, and nine UN principles of effective MSI governance developed in consultation with the UN Special Representative on Business & Human Rights, Mr. John Ruggie. To see the summary results of my independent assessment of the ISACS MSI conformance to these principles, in contrast to the ICoC MSI mentioned above, see **Exhibit 1**.

To elaborate on bullet three above (principles of professional and ethical conduct), I'd like to now call your attention to the fact that UN principles of professional and ethical conduct are exhaustively detailed in many UN publications and are expressed through, *inter alia*, organizational values, rules, and regulations. Some are quite soft and fuzzy. Others are quite hard and explicit and backed by the force of international law as binding individual obligations applicable to all UN employees and contractors. Arguably, on the basis of effectiveness and agency, individually binding UN obligations apply to all persons (paid and unpaid) who carry out or participate in official functions of the UN. Since the ISACS MSI is an official function of the UN and has been variously mandated by the UN General Assembly and UN Secretary General,<sup>26</sup> individually binding behavioral obligations (BBOs) related to professional and ethical conduct apply to all persons party to the ISACS development process.

Persons subject to BBOs include all UN staff members carrying out functions of constituent entities of the UN Charter system. By implication BBOs apply to those holding uncompensated "independent" "advisory" and/or "consultant" roles as well. Moreover, unless otherwise provided for in some secret UN policy document, there are no exemptions authorized or derogations mechanisms available to subjects coordinating or otherwise participating in normative international small arms control work, whether it be formal or informal international lawmaking and/or policy making and/or standard setting initiatives sponsored by the UN CASA mechanism or the UN General Assembly (e.g. the UN Arms Trade Treaty).<sup>27</sup>

There is no doubt that persons subject to such BBOs also include your direct supervisor, and all UN agency officials overseeing you and your work, including those officially or unofficially affiliated with and/or providing direction to and/or supervision over the UN CASA mechanism, including but not limited to the Administrator of the UNDP, the High Representative for Disarmament of Affairs, and His Excellency the UN Secretary General himself. Having elaborated at some length on the subjects of UN BBOs, I now turn to five sources of said BBOs. These are:

1. The UN Charter (Chapter 15),<sup>28</sup>
2. The UN Oath of Office,<sup>29</sup>

3. The Standards of Conduct for the International Civil Service,<sup>30</sup>
4. The UN Staff Rules and Regulations,<sup>31</sup> and
5. The UN Core Values and Competencies.<sup>32</sup>

Of these five sources, I'd like to now elaborate on sources three, four, and five only since they incorporate all of the BBOs of the first two listed above. Now, there are numerous obligations specified and implied by the Standards of Conduct for the International Civil Service, UN Staff Rules and Regulations and the Core Values and Competencies. I call your attention to the following 25 items with serious concern about your official coordination of the ISACS MSI, and the conduct and sponsorship of the MSI more generally:

1. UN Core Values = Integrity, Professionalism, Respect for Diversity.<sup>33</sup>
2. Core Competencies = Communication, Teamwork, Accountability, Client Orientation.<sup>34</sup>
3. Managerial Competencies = Empowering Others, Building Trust, Managing Performance, and Judgment/Decision-making.<sup>35</sup>
4. International civil servants (ICS) "should not interfere in the policies or affairs of Governments. It is the clear duty of all international civil servants to maintain the best possible relations with Governments and avoid any action that might impair this."<sup>36</sup>
5. ICS should exude integrity "in all aspects of their behavior" such qualities as "honesty, truthfulness, impartiality and incorruptibility."<sup>37</sup>
6. ICS "must respect all persons equally, without any distinction whatsoever," in a way "that is a positive affirmation going well beyond passive acceptance."<sup>38</sup>
7. "Impartiality implies tolerance and restraint, particularly in dealing with political or religious convictions."<sup>39</sup>
8. ICS "[m]ust remain independent of any authority outside their organization; their conduct must reflect that independence. In keeping with their oath of office, they should not seek nor should they accept instructions from any Government, person or entity external to the organization."<sup>40</sup>
9. ICS conduct should promote "good relations" with individual member States and their constituents, and contribute to their trust and confidence in the UN.<sup>41</sup>
10. ICS "at all levels are accountable and answerable for all actions carried out, as well as decisions taken, and commitments made by them in performing their functions." "All international civil servants therefore have a continuing responsibility to promote a better understanding of the objectives and work of their organizations in their relations with the public."<sup>42</sup>
11. ICS "must at all-times maintain a broad international outlook and an understanding of the international community as a whole."<sup>43</sup>
12. ICS have a duty to acknowledge the "right of others" and to not dismiss or disregard those who "hold different points of view and follow different cultural practices."<sup>44</sup>
13. ICS are required to "work without bias with persons of all nationalities, religions and cultures; it calls for constant sensitivity as to how words and actions may look to others. It requires avoidance of any expressions [e.g. ISACS documents] that could be interpreted as biased or intolerant."<sup>45</sup>
14. "Managers and supervisors serve as role models and they have therefore a special obligation to uphold the highest standards of conduct."<sup>46</sup>

15. United Nations Staff (UNS) shall “exhibit respect for all cultures; they shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them.”<sup>47</sup>
16. UNS shall “uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.”<sup>48</sup>
17. UNS Shall “ensure that [their personal] views and convictions do not adversely affect their official duties or the interests of the United Nations.”<sup>49</sup>
18. UNS shall “avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.”<sup>50</sup>
19. UNS shall not “use their office for personal reasons to prejudice the positions of those they do not favour.”<sup>51</sup>
20. UNS “have the duty to report any breach of the Organization’s regulations and rules to the officials whose responsibility it is to take appropriate action and to cooperate with duly authorized audits and investigations.”<sup>52</sup>
21. UNS “shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.”<sup>53</sup>
22. “Failure by a [UN] staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant may amount to misconduct and may lead to the institution of a disciplinary process and the imposition of disciplinary measures for misconduct.”<sup>54</sup>

To interested parties who don’t share your evident personal stakeholder bias, and your evident disregard for customary norms of international standards development, and your evident disregard for contemporary norms MSI governance, your behavior creates an indelible impression of conduct unbecoming an international civil servant and public authority since the general pattern of your conduct on its face is does not appear to conform with numerous BBOs implied or specified above. To see the summary results of my independent assessment of your conformance to applicable BBOs, in contrast to Ms. Anne-Marie Buzatu (the Coordinator of the ICoc MSI mentioned previously), please see **Exhibits 2.1, 2.2, and 2.3**.

In conclusion, this informal letter of input was to deliver some feedback on the draft ISACS 3.3 standard and hopefully provided some insight into why opposition to the proposed standard appears so extreme at this point in time and why, by implication, many interested parties in government, industry, and civil society have lost complete confidence and trust in you as an international public authority and view the ISACS MSI as incompetent. This letter also submitted a request that the ISACS MSI temporarily cease and desist work and provided high-level findings as a courtesy copy, in advance of something more detailed to be provided to UN officials with authority to handle ethics and other matters of misconduct.

Now, as one of millions of like-minded abusively disregarded and specially affected American stakeholders, I also would like to personally to encourage you to consider resigning your post on principle if you are not permitted to work constructively to reboot or restart of the entire ISACS MSI in a way that brings it and its outputs in line with relevant principles, and incorporates proper control measures to ensure all ISACS MSI

participants conform to BBOs specified and implied by the UN Charter, the UN Oath of Office, the Standards of Conduct for the International Civil Service, and the UN Staff Rules and Regulations.

In the spirit improved transparency and accountability immediately, this letter is intended to be open. This means it will be shared widely, and with the ISACS Accountability Project ([www.isacs-ap.org](http://www.isacs-ap.org)). I am also courtesy copying two senior policy officials at the US Department of State's Office of Conventional Arms Threat Reduction, and the US Department of Justice's Bureau of Alcohol, Tobacco, and Firearms. I have exchanged views with these officials from time to time, and most recently with respect to the concerning draft standard 3.30. They have been made aware of a contingency plan to submit a petition letter to the US Secretary of State on behalf of American interested parties, which would also be provided to selected leaders of the United States Senate and House of Representatives.

I look forward to your prompt response. Thank you for your timely consideration on this special matter.

Respectfully,

*Original Signed/Sent by Post*

Jeff Moran  
Executive Program Student

#### Exhibits

- 1 ISACS MSI v. ICoC MSI Principles Conformance Assessment
- 2.1 MSI Coordinator Behavioral & Ethical Norm Conformance Assessment, Part 1
- 2.2 MSI Coordinator Behavioral & Ethical Norm Conformance Assessment, Part 2
- 2.3 MSI Coordinator Behavioral & Ethical Norm Conformance Assessment, Part 3

Cc: *(Via Email 23 February 2015)*

Mr. William Malzahn, Senior Policy Coordinator, Office of Conventional Arms Threat Reduction, Bureau of International Security and Nonproliferation, US Department of State

Mr. Scott Reid III, Deputy Director, Office of Conventional Arms Threat Reduction, Bureau of International Security and Nonproliferation, US Department of State

Mr. William Kullman, Chief International Advisor, Bureau of Alcohol, Tobacco and Firearms, US Department of Justice.

## Exhibit 1 ISACS MSI v. ICoC MSI Principles Conformance Assessment

<b>MSI PRINCIPLES CONFORMANCE ASSESSMENT</b>		
<b>Conformed to UN Principles of MSI governance?</b>	<b>ICoC MSI</b>	<b>ISACS MSI</b>
1 MSIs involve, and must be respectful and responsive to the interests, concerns, values, and goals, of all relevant stakeholders and their constituencies.	YES	NO
2 MSIs are accountable to those who are specially affected by and benefiting from the MSI, not just organizing and sponsoring MSI actors.	YES	NO
3 MSIs involve all relevant stakeholders at all stages of the MSI process or life-cycle.	YES	NO
4 MSIs clearly, explicitly, and openly describe governance structures, processes, roles, participants, participation, make all this information publicly available.	YES	NO
5 MSIs involve specially affected stakeholders in decision-making, and especially about setting the policy agenda, governance, MSI process planning and execution.	YES	NO
6 MSIs hear and integrate the views of all stakeholders at all stages through dialogue and consensus building.	YES	NO
7 MSIs equitably balance stakeholder power and responsibilities.	YES	NO
8 MSIs take account and sanction failures to respect rules and procedures.	NO DATA	NO
9 MSIs provide mechanisms for resolution of grievances, complaints, and disputes.	YES	NO
<b>Conformed to Principles of Standards Development?</b>	<b>ICoC MSI</b>	<b>ISACS MSI</b>
1 Standards respond to a need (e.g. in international law)	YES	YES
2 Standards are based on global expert opinion (all expert opinion included and regarded, none dismissed)	YES	NO
3 Standards are developed through a multi-stakeholder process (e.g. timing, scope, reach, ambition, determined by stakeholders, through dialogue, neutrally coordinated)	YES	NO
4 Standards are based on a consensus (general agreement without sustained opposition).	YES	NO
<p>Note: UN Principles for effective MSIs were adapted from "Principles That Make For Effective Governance of Multistakeholder Initiatives." Output document from UN SRSG/CCC Expert workshop on improving human rights performance of business through multistakeholder initiatives, 6 – 7 Nov 2007. Customary principles of standards development were adapted from those published online by the International Organization of Standardization (ISO): <a href="http://www.iso.org/iso/home/standards_development.htm">http://www.iso.org/iso/home/standards_development.htm</a>. Assesment method based on accumulated personal observations, minority stakeholders consultations, MSI Coordinator interviews, analysis of obtained internal project documents.</p> <p>(c) Copyright 2015   Jeff Moran   All Rights Reserved</p>		

## Exhibit 2.1 MSI Coordinator Behavioral & Ethical Norm Conformance Assessment, Part 1

<b>MSI COORDINATOR BEHAVIORAL &amp; ETHICAL NORM CONFORANCE ASSESSMENT, Part 1</b>		
<b>Conformed to UN Core Values and Competencies?</b>	<b>ICoC MSI</b>	<b>ISACS MSI</b>
1 Value: Integrity (generally)	YES	NO
2 Value: Professionalism (i.e. conforms to applicable principles, standards, rules, regulations)	YES	NO
3 Value: Respect for Diversity	YES	NO
4 Core Competency: Communication	YES	NO
5 Core Competency: Teamwork	YES	NO
6 Core Competency: Planning & Organizing	YES	YES
7 Core Competency: Accountability	YES	NO
8 Core Competency: Creativity	NO DATA	YES
9 Core Competency: Client Orientation	YES	NO
10 Core Competency: Commitment to Continuous Learning	NO DATA	NO DATA
11 Core Competency: Technological Awareness	NO DATA	NO DATA
12 Managerial Competency: Leadership (thought-leadership evaluated only)	YES	YES
13 Managerial Competency: Vision	YES	YES
14 Managerial Competency: Empowering Others	YES	NO
15 Managerial Competency: Building Trust	YES	NO
16 Managerial Competency: Managing Performance	YES	NO
17 Judgement/Decision-making	YES	NO

Note: Criterial adapted from United Nations Competencies for the Future. 2000. Assesment method based on accumulated personal observations, minority stakeholders consultations, MSI Coordinator interviews and interactions, analysis of obtained internal project documents.

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## Exhibit 2.2 MSI Coordinator Behavioral & Ethical Norm Conformance Assessment, Part 2

<b>MSI COORDINATOR BEHAVIORAL &amp; ETHICAL NORM CONFORANCE ASSESSMENT, Part 2</b>		
<b>Conformed to applicable UN Standards of Conduct for International Civil Service?</b>	<b>ICoC MSI</b>	<b>ISACS MSI</b>
1 Exudes integrity in all aspects of behavior: Honesty / Truthfulness	YES	NO
2 Exudes integrity in all aspects of behavior: Impartiality (Treatment of stakeholders)	YES	NO
3 Exudes integrity in all aspects of behavior: Impartiality (Political - gun policy ISACS Only)	NO DATA	NO
4 Exudes integrity in all aspects of behavior: Impartiality (Enforcing standards or rules)	YES	NO
5 Exudes integrity in all aspects of behavior: Impartiality (Restraint in words in actions)	YES	NO
6 Exudes integrity in all aspects of behavior: Incorruptibility (Stakeholder independence)	YES	NO
7 Respects all persons equally, without any distinction whatsoever, in a way that is a positive affirmation going well beyond passive acceptance.	YES	NO
8 Remains independent, does not seek or accept instructions from any government, person or entity external to the organization.	YES	NO
9 Promote “good relations” with individual member states and their constituents, and contributes to their trust and confidence in the organization.	YES	NO
10 At all-times, maintains a broad international outlook and an understanding of the international community as a whole.	YES	NO
11 Acknowledges the “right of others” and does not dismiss or disregard those who hold different points of view and follow different cultural practices.	YES	NO
12 Works without bias with persons of all nationalities, religions and cultures.	YES	NO
12 Is constantly sensitive as to how words and actions may look to others, avoids any expressions that could be interpreted as biased or intolerant.	YES	NO
14 Serves as role model and upholds the highest standards of conduct (as MSI leader).	YES	NO

Note: Criteria adapted from Standards of Conduct for the International Civil Service. July 2013. Assessment method based on accumulated personal observations, minority stakeholders consultations, MSI Coordinator interviews and interactions, analysis of obtained internal project documents.

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## Exhibit 2.3 MSI Coordinator Behavioral & Ethical Norm Conformance Assessment, Part 3

MSI COORDINATOR BEHAVIORAL & ETHICAL NORM CONFORANCE ASSESSMENT, Part 3		
Conformed to applicable UN Staff Rules and Regulations?	ICoC MSI	ISACS MSI
1 Exhibits respect for all cultures; does not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them.	YES	NO
2 Upholds the highest standards of efficiency	YES	YES
3 Upholds the highest standards of competence (i.e. on international standards development, multistakeholder initiatives and their effective governance, etc.).	YES	NO
4 Upholds the highest standards of integrity (generally).	YES	NO
5 Integrity: <u>probity</u> in all matters affecting their work and status.	YES	NO
6 Integrity: <u>impartiality</u> in all matters affecting their work and status.	YES	NO
7 Integrity: <u>fairness</u> in all matters affecting their work and status.	YES	NO
8 Integrity: <u>honesty</u> in all matters affecting their work and status.	YES	NO
9 Integrity: <u>truthfulness</u> in all matters affecting their work and status.	YES	NO
10 Ensures that personal views and convictions do not adversely affect their official duties or the interests of their employers (e.g. the United Nations).	YES	NO
11 Avoids any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.	YES	NO
12 Does not use their office (as MSI Coordinator) for personal reasons to prejudice the positions of those (MSI stakeholders) they do not favour.	YES	NO
13 Reports any breach of the Organization’s regulations and rules to the officials whose responsibility it is to take appropriate action and to cooperate with duly authorized audits and investigations.	NO DATA	NO
14 Does not intentionally misrepresent their functions, official title or the nature of their duties (e.g. to Member States or to any entities or persons external to the United Nations).	YES	NO

Note: Criterial adapted from UN Staff Rules and Regulations (2014). Assesment method based on accumulated personal observations, minority stakeholders consultations, MSI Coordinator interviews and interactions, analysis of obtained internal project documents.

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## End Notes

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<sup>1</sup> The ISACS undertaking is an international standard-setting MSI led by the United Nations Development Program (UNDP) as part of the UN Coordinating Action on Small Arms (UN CASA) mechanism. The focal point for UN CASA is the UN Office of Disarmament Affairs (UNODA). The public website for UN CASA is: <http://www.poa-iss.org/CASA/CASA.aspx>. The public website for the ISACS undertaking is: [www.smallarmsstandards.com](http://www.smallarmsstandards.com). Rightly understood, the ISACS MSI is a form of international normative cooperation or informal international lawmaking (IN-LAW) designed to resolve what are known as sustainability problems. Sustainability problems addressed by MSI's can include a range of issues affecting individuals, communities, and organizations. The ISACS MSI was conceived to address, *inter alia*, the global sustainability problem of uncontrolled proliferation of small arms and light weapons and their misuse...to reduce human rights violations and promote human security. The UN ISACS are intended as normative instruments for UN member states to incorporate into their national regulations and/or legislation. For more on the subject of IN-LAW see See J. Pauwelyn, R. Wessel, and J. Wouters (eds), *Informal International Lawmaking* (OUP, Oxford, 2012). See also J. Pauwelyn 'Informal International Lawmaking: Framing the Concept and Research Questions' (February 1, 2011). Online: <http://ssrn.com/abstract=1738464>. For a UN fact-sheet on multi-stakeholder processes see: B. Lim. 'Multi-stakeholder Processes.' UNDP. 2005. Online: [http://tsmworldwide.com/?attachment\\_id=2142](http://tsmworldwide.com/?attachment_id=2142). Established UN guidelines and principles for MSIs have been available to UN organizations since 2007. Outputs from UN expert meetings facilitated by Professor John Ruggie, the United Nations Special Representative for the Secretary General on Business and Human Rights, are freely available online: <http://business-humanrights.org/en/special-representative/un-secretary-generals-special-representative-on-business-human-rights/materials-by-topic/multi-stakeholder-initiatives>. Finally, for a more strategic guidebook on MSIs, read M. van Huijstee. 'Multi-Stakeholder Initiatives: A Strategic Guide for Civil Society Organizations' (March 12, 2012). Online: <http://ssrn.com/abstract=2117933>.

<sup>2</sup> UN CASA. 'United Nations Small Arms Control Standards 3.30: National regulation of civilian access to small arms and light weapons.' Version 3.1 2015. Online: [http://tsmworldwide.com/?attachment\\_id=2293](http://tsmworldwide.com/?attachment_id=2293).

<sup>3</sup> Based on my research and analysis of obtained ISACS MSI documentation, the ERG is essentially the ISACS MSI's approved official stakeholder pool. By my estimate, the approved ISACS stakeholder pool is approximately comprised of a 90%+ majority coalition v. a 10%- minority coalition. The majority is made up of more than 100 individuals in a coalition of mostly European members of the small arms control epistemic community, state officials, anti-industry and anti-civil arms rights groups such as IANSA, and Control Arms. There is not American expert representation from the fields of law enforcement, firearms, and crime reduction policy, such as John Kennedy, John Lott, and David Kopel. There is not representation from American arms rights civil society organizations as well. The minority coalition is made up of a handful individuals from pro-industry trade groups and one individual from a British sport shooting association, one individual from an Australian sporting organization, and one individual from a Canadian civil arms rights group. [UPDATE: a detailed analysis of the ERG and all persons party to the ISACS process is pending and will be published separately. The total number of individuals involved in the ISACS MSI is 341: 162 belong to the ERG, 15 are "consultants," 14 are "donors," and 150 are UN persons affiliated UN CASA. This analysis will include a by name identification of all donors and consultants, and public UN and national authorities listed internal ISACS documents as of February 2015].

<sup>4</sup> Normative in the context of international standards development and informal international lawmaking means that a given undertaking is aimed at steering behavior of actors and/or determining, reducing, or otherwise constraining the freedoms of actors, and/or unilaterally shaping the legal or factual situation of actors. Actors are understood to come in two types: state and non-state. Non-state actors include but are not limited to corporations and individual private citizens. See J. Pauwelyn, R. Wessel, and J. Wouters (eds), *Informal International Lawmaking* (OUP, Oxford, 2012) pp. 16, 22. Also includes reference to A. von Bogdandy, P. Dann, and M. Goldman, 'Developing the Publicness of Public International Law: Towards a Legal Framework for Global Governance Activities' (2008) 9 *German Law Journal* 1375, 1376.

<sup>5</sup> Personal email correspondence. 9 April 2013. Introduction of Jeff Moran to Patrick Mc Carthy by Allan Youngman of the Defense Small Arms Advisory Council. Online: <http://tsmworldwide.com/wp-content/uploads/2015/02/DSAAC-intro-of-Jeff-Moran-to-Patrick-McCarthy.pdf>. Note: I obtained Allen Youngman's permission to make this email public as part of my research. I do not now nor have I ever had any business relationship with Mr. Youngman or DSAAC, or any other member of the ISACS ERG. I personally initiated contact with Mr. Youngman in 2013 pursuant to international weapons law and lawmaking process studies at the Geneva Academy.

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<sup>6</sup> P. Mc Carthy. 'ISACS Project Document.' UN CASA 26 Feb 2009. Pages 4-5. Online: [http://tsmworldwide.com/?attachment\\_id=2205](http://tsmworldwide.com/?attachment_id=2205).

<sup>7</sup> The quotation regarding Dr. Maslen's ISACS role is drawn from an official ISACS MSI document. See P. Mc Carthy. 'Workshop to Launch the Drafting Phase 15-16 July 2009' UN CASA. Online:

[http://tsmworldwide.com/?attachment\\_id=2289](http://tsmworldwide.com/?attachment_id=2289). More accurately, Dr. Maslen is an international weapons control and disarmament legal specialist, and he is arguably not independent by virtue of his indirect financial and direct working relationship with members of the Swiss Federal Department of Foreign Affairs from time to time. His personal CV, found online in 2014, is available here: [http://tsmworldwide.com/?attachment\\_id=2213](http://tsmworldwide.com/?attachment_id=2213).

<sup>8</sup> Email correspondence between Jeff Moran and Dr. Patrick Mc Carthy. May / June 2013. Online: [http://tsmworldwide.com/?attachment\\_id=2291](http://tsmworldwide.com/?attachment_id=2291)

<sup>9</sup> J. Moran. 'United Nations Inter-Agency Small Arms Control Standards Development: A Case Study In Troubled Transnational Gun Control & Civil Disarmament Policymaking?' Journal on Firearms and Public Policy. Vol 25. (2013) Online: <http://tsmworldwide.com/draft-paper-released-for-review-comment/>

<sup>10</sup> UNDP. 'How To Guide: Small Arms and Light Weapons Legislation.' Advocacy Series. Bureau for Crises Prevention and Recovery. July 2008. Online: [http://tsmworldwide.com/?attachment\\_id=2146](http://tsmworldwide.com/?attachment_id=2146).

<sup>11</sup> P. Mc Carthy. Email to ISACS ERG. 11 Dec 2011. Online: [http://tsmworldwide.com/?attachment\\_id=2151](http://tsmworldwide.com/?attachment_id=2151)

<sup>12</sup> International Code of Conduct Association. Online: [http://www.icoc-ppsp.org/ICoC\\_Association.html](http://www.icoc-ppsp.org/ICoC_Association.html).

<sup>13</sup> Very briefly, the ICoC MSI started a bit earlier than the ISACS MSI but both are in the later stages of the MSI life-cycle. The sponsors of the ISACS and ICoC MSIs can both legitimately claim degrees of success. However, the ICoC MSI engaged industry inclusively and cooperatively and the ISACS MSI clearly has not. To their respective industry stakeholders, the ICoC MSI is a model of success (based on, *inter alia*, bridge-building and interest-balancing) and the ISACS MSI is a spectacular failure (resulting from, *inter alia*, alienation and breaches of international standards setting protocol, systematic and widespread individual misconduct). All of this of this implies favorably and adversely with regard to the normative quality their respective outputs. More information on the ICoC and its broader association can be found online here: [http://www.icoc-ppsp.org/Home\\_Page.html](http://www.icoc-ppsp.org/Home_Page.html) and here: <http://www.icoca.ch/>.

<sup>14</sup> UN CASA. 'United Nations Small Arms Control Standards 3.30: National regulation of civilian access to small arms and light weapons.' Version 3.0 2011. Online: [http://tsmworldwide.com/?attachment\\_id=2210](http://tsmworldwide.com/?attachment_id=2210).

<sup>15</sup> J. McCarthy. 'More Than Six in 10 Americans Say Guns Make Homes Safe.' 7 Nov 2014. [http://www.gallup.com/poll/179213/six-americans-say-guns-homes-safer.aspx?utm\\_source=gun%20ownership&utm\\_medium=search&utm\\_campaign=tiles](http://www.gallup.com/poll/179213/six-americans-say-guns-homes-safer.aspx?utm_source=gun%20ownership&utm_medium=search&utm_campaign=tiles). Accessed 4 Feb 2015.

<sup>16</sup> For more on this please read the authoritative legal debunking of the "Frey Report" argument that there is no international human right to self-defense. See D. Kopel, P. Gallant, and J. Eisen, 'The Human Right of Self-Defense,' 22 BYU J. Pub. L. 43 (2007) p. 97 Online: <http://www.law2.byu.edu/jpl/Vol22.1/Kopel.pdf>

<sup>17</sup> UN. United Nations Staff Rules and Regulations. 2014. Online:

[http://www.un.org/hr\\_handbook/English/sourcedocuments/\\_04staffrules\\_/fulltext-1/fulltext.doc](http://www.un.org/hr_handbook/English/sourcedocuments/_04staffrules_/fulltext-1/fulltext.doc)

<sup>18</sup> US Supreme Court. District of Columbia, et al. v. Dick Anthony Heller. 554 U.S. 570 (2008)

<sup>19</sup> P. Mc Carthy. 'ISACS Background Paper.' UN CASA. 14 Nov 2008. p. 4. Online: [http://tsmworldwide.com/?attachment\\_id=2029](http://tsmworldwide.com/?attachment_id=2029)

<sup>20</sup> These federal rules and regulations are known generally as the NFA rules, drawn from the US Federal Firearms Act of 1938. Public Law 75-785. See the original act online: <http://legisworks.org/sal/52/stats/STATUTE-52-Pg1250.pdf>. This body of law has been revised and elaborated over the years and arguably provides a customary basis for qualified individuals of good moral character to collect, use, and otherwise enjoy certain weapons generally referred to as light weapons or automatic weapons.

<sup>21</sup> Personal interview and correspondence with Mr. Jeff Folloder. Executive Director of the American National Firearms Act Trade & Collectors Association. 19 Feb 2015. See this organization's website for more information: <http://nfatca.org/>

<sup>22</sup> See *Supra* Note at 17.

<sup>23</sup> "Ambitious" was the word used on the CASA website to describe the ISACS initiative. UN CASA Website. Page 1. Site capture 24 Jun 2012. Available online: <http://tsmworldwide.com/wp-content/uploads/2012/08/CASA-Project-on-International-Small-Arms-Control-Standards-ISACS.pdf>

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<sup>24</sup> By my estimation, and in consultation with representatives of the International Organization of Standardization in Geneva, the ISACS MSI operates at variance with last three of the four principles of international standards development listed on the ISO website. See Online: [http://www.iso.org/iso/home/standards\\_development.htm](http://www.iso.org/iso/home/standards_development.htm). 4 Feb 2015.

<sup>25</sup> By my estimation and on the basis of published UN principles of effective governance for MSIs, the ISACS MSI has failed to conform to almost all relevant UN principles of effective MSI governance. Brown, Pins. UN SRSG/CCC expert workshop document: 'Principles that make for effective governance of multi-stakeholder initiatives: updated, final version,' 2007. Online: <http://business-humanrights.org/sites/default/files/media/bhr/files/Principles-for-effective-MSIs-6-7-Nov-2007.pdf>

<sup>26</sup> P. Mc Carthy. 'ISACS Project Document.' UN CASA 26 Feb 2009. Page 5. Online: [http://tsmworldwide.com/?attachment\\_id=2205](http://tsmworldwide.com/?attachment_id=2205).

<sup>27</sup> UN Coordinating Action on Small Arms. Online: <http://www.poa-iss.org/CASA/CASA.aspx>.

<sup>28</sup> Charter of the United Nations. Online: <http://www.un.org/en/documents/charter/chapter15.shtml>

<sup>29</sup> UN. Oath of Office. Online: [http://tsmworldwide.com/?attachment\\_id=2269](http://tsmworldwide.com/?attachment_id=2269)

<sup>30</sup> International Civil Service Commission. 'Standards of Conduct for the International Civil Service.' July 2013 Online: <http://icsc.un.org/resources/pdfs/general/standardsE.pdf>

<sup>31</sup> *Supra* at Note 17.

<sup>32</sup> UN. 'United Nations Competencies for the Future.' 2000. Online: [https://careers.un.org/lbw/attachments/competencies\\_booklet\\_en.pdf](https://careers.un.org/lbw/attachments/competencies_booklet_en.pdf)

<sup>33</sup> *Idem.*, p. 12

<sup>34</sup> *Ibid.*, p. 13.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Supra* at Note 30, p. 8.

<sup>37</sup> *Idem.*, p. 3.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*, p. 9.

<sup>43</sup> *Ibid.*, p. 4.

<sup>44</sup> *Ibid.*, p. 5.

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Supra* at Note 17. Regulation 1.2. Paragraph a.

<sup>48</sup> *Idem.*, Paragraph b.

<sup>49</sup> *Ibid.*, Paragraph f.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*, Paragraph g.

<sup>52</sup> *Ibid.*, Rule 1.2. Paragraph. c.

<sup>53</sup> *Ibid.*, Paragraph. h.

<sup>54</sup> *Ibid.*, Rule 10.1 Paragraph a.