

DRAFT INTERNATIONAL **ISACS**
SMALL ARMS CONTROL **03.21**
STANDARD

First edition
YYYY-MM-DD

Draft 3.0

**National controls over the end-user and
end-use of internationally transferred
small arms and light weapons**

Disclaimer

This document is in draft form. As such, it is not complete, has not been adopted by the United Nations and may not be referred to as an international standard.

© UN CASA 2011

United Nations Coordinating Action on Small Arms (CASA)
Working Group on International Small Arms Control Standards (ISACS)
Secretariat: c/o UN Office for Disarmament Affairs (Geneva branch)
Palais des Nations, CH-1211 Geneva 10, Switzerland
Tel: +41 22 917 23 87
Fax: +41 22 917 00 34
E-mail: coordinator@un-casa-isacs.org
Web: www.un-casa-isacs.org

Contents	Page
Foreword	iv
Introduction	vi
1 Scope	1
2 Normative references	1
3 Terms, definitions and abbreviations	1
3.1 Terms and definitions	1
3.2 Abbreviated terms	3
3.3 Use of terms	3
4 United Nations framework	3
4.1 General	3
4.2 UN Programme of Action	4
4.3 UN Disarmament Commission	4
4.4 UN Secretary-General	4
5 General principals	4
6 End-user and end-use documentation	5
6.1 General	5
6.2 End-user certificate	5
6.3 End-user statement	7
6.4 Authentication and verification	9
6.5 Simplified procedures	11
6.6 Strengthened controls over the end-use of MANPADS	11
6.7 Grounds for denial	12
7 Post-delivery controls	12
7.1 General	12
7.2 Delivery verification	13
7.3 Post-delivery inspection	15
7.4 Restrictions on re-export	15
8 National legislation	15
8.1 General	15
8.2 Key elements	16
8.3 Offences	16
8.4 Enforcement mechanisms	16
9 Recordkeeping	17
Bibliography	18

Foreword

The United Nations (UN) Coordinating Action on Small Arms (CASA) mechanism strives to improve the UN's ability to work as one in delivering effective policy, programming and advice to Member States on curbing the uncontrolled proliferation and misuse of small arms and light weapons. Established by the Secretary-General in 1998 with the task of coordinating the small arms work of the United Nations, CASA today unites more than 20 UN bodies active in policy development and/or programming related to small arms and light weapons.¹

Building on previous UN initiatives to develop international standards in the areas of mine action (International Mine Action Standards) and disarmament, demobilization and reintegration of ex-combatants (Integrated Disarmament, Demobilization and Reintegration Standards), the United Nations is developing a series of International Small Arms Control Standards (ISACS) with the aim of providing clear and comprehensive guidance to practitioners and policymakers on fundamental aspects of small arms and light weapons control. This document forms part of the ISACS series, as outlined in the table opposite.

ISACS are framed by existing global agreements related to small arms and light weapons control, in particular

- the *UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons In All Its Aspects* (UN PoA);
- the *International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons* (International Tracing Instrument) and;
- the *UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime* (UN Firearms Protocol).

ISACS build upon standards, best practice guidelines, model regulations, etc. that have been elaborated at the regional and sub-regional levels and they seek to cover the fundamental areas of small arms and light weapons control on which the United Nations may be called upon to provide advice and guidance.

This ISACS module is being drafted in accordance with the rules given in ISO/IEC Directives, Part 2, *Rules for the structure and drafting of International Standards*, under the oversight of the CASA Working Group on ISACS, co-chaired by the United Nations Office for Disarmament Affairs (UNODA) and the United Nations Development Programme (UNDP).

¹ Current members of the United Nations Coordinating Action on Small Arms (CASA) mechanism are: Department of Economic and Social Affairs (DESA); Department of Peacekeeping Operations (DPKO); Department of Political Affairs (DPA); Department of Public Information (DPI); Office for Disarmament Affairs (UNODA); International Civil Aviation Organization (ICAO); Office for the Coordination of Humanitarian Affairs (OCHA); Office of the Special Adviser on Africa (OSAA); Office of the Special Adviser on the Prevention of Genocide (OSAPG); Office of the Special Representative of the Secretary General for Children and Armed Conflict (OSRSG/CAAC); Office of the United Nations High Commissioner for Human Rights (OHCHR); Office on Drugs and Crime (UNODC); United Nations Children's Fund (UNICEF); United Nations Development Fund for Women (UNIFEM); United Nations Development Programme (UNDP); United Nations Environment Programme (UNEP); United Nations High Commissioner for Refugees (UNHCR); United Nations Human Settlements Programme (UN-HABITAT); United Nations Institute for Disarmament Research (UNIDIR); United Nations Mine Action Service (UNMAS); United Nations Security Council Counter-Terrorism Committee Executive Directorate (CTED) and the World Health Organization (WHO). The United Nations Office for Disarmament Affairs (UNODA) acts as the focal point of CASA.

Working Outline of ISACS

SERIES		MODULE	
01	Introduction to ISACS	01.10	Guide to the application of ISACS
		01.20	Glossary of terms, definitions and abbreviated terms
02	Small arms and light weapons control in context	02.10	Small arms and light weapons control in the context of preventing armed violence
		02.20	Small arms and light weapons control in the context of Disarmament, Demobilization and Reintegration
		02.30	Small arms and light weapons control in the context of Security Sector Reform
03	Legislative and Regulatory	03.10	National controls over the manufacture of small arms and light weapons
		03.20	National controls over the international transfer of small arms and light weapons
		03.21	National controls over the end-user and end-use of internationally transferred small arms and light weapons
		03.30	National controls over the access of civilians to small arms and light weapons
		03.40	National coordinating mechanisms on small arms and light weapons control
		03.50	International legal cooperation, criminal offenses and investigations
04	Design and Management	04.10	Designing and implementing National Action Plans
		04.20	Designing and implementing community safety programming
		04.30	Raising awareness of the need for small arms and light weapons control
		04.40	Monitoring, evaluation and reporting
05	Operational Support	05.10	Conducting small arms and light weapons surveys
		05.20	Stockpile management: Weapons
		05.21	Stockpile management: Ammunition
		05.30	Marking and recordkeeping
		05.31	Tracing illicit small arms and light weapons
		05.40	Collection
		05.50	Destruction: Weapons
		05.51	Destruction: Ammunition
06	Crosscutting Issues	06.10	Gender and small arms and light weapons
		06.20	Children, Youth and small arms and light weapons

Introduction

Effective national controls over the end-user and end-use of internationally transferred small arms and light weapons are essential to ensuring that legally transferred small arms and light weapons reach their authorized end-user, are used in a manner consistent with their authorized end-use and are not diverted to the illicit market.

Identifying and evaluating an authorized end-user and end-use is an essential step in assessing applications for authorization to export small arms and light weapons. But the process does not end there. End-user and end-use controls extend beyond the time of export to encompass delivery verification (i.e. confirming that exported weapons have successfully reached their authorized end-user) and post-delivery controls (i.e. confirming that the end-user is abiding by undertakings made as part of the transfer contract). For all this to be possible, a robust legislative and regulatory system is required.

End-user and end-use controls constitute a necessary but not sufficient component of a comprehensive transfer control system for small arms and light weapons. Implemented alongside the comprehensive transfer controls set out in ISACS 03.20, *National controls over the international transfer of small arms and light weapons*, end-user and end-use controls constitute a powerful tool in combating the illicit trade in small arms and light weapons.

National controls over the end-user and end-use of internationally transferred small arms and light weapons

1 Scope

This document provides practical guidance on developing and implementing effective and accountable national controls over the end-user and end-use of internationally transferred small arms and light weapons.

It covers the form and content of end-user and end-use documentation, including its authentication and verification; post-delivery controls of exported small arms and light weapons; and legislative and regulatory issues.

This document does not cover aspects of transfer controls beyond end-user and end-use controls. Such guidance is provided by ISACS 03.20, *National controls over the international transfer of small arms and light weapons*, which should be read in conjunction with this document.

The guidance contained in this document is applicable to any State that exports or imports small arms or light weapons, regardless of whether or not the State in question produces such weapons. It is also applicable to States that serve as transit hubs for international transfers of small arms and light weapons.

2 Normative references

The following referenced documents are indispensable for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

ISACS 03.20, *National controls over the international transfer of small arms and light weapons*

ISACS 05.30, *Marking and recordkeeping*

3 Terms, definitions and abbreviations

3.1 Terms and definitions

For the purposes of this document, the terms and definitions given in ISACS 01.20, *Glossary of terms, definitions and abbreviated terms*, including the following, apply.

authentication

checking if end-user and end-use documentation has been forged or tampered with

NOTE cf. verification

delivery verification certificate

a document, certified by customs or other competent authority of the importing State, confirming that internationally transferred small arms or light weapons have been successfully imported

end-use

the ultimate application of internationally transferred small arms or light weapons

end-use, authorized

end use agreed to by the exporting and importing States

NOTE An exporting State authorizes an end-use by specifying it in an export authorization. An importing State does so by

- a) specifying it in an end-user certificate issued by a competent national authority; or
- b) validating its specification in an end-user statement issued by a private end-user.

end-use assurance

that which is provided by an end-user certificate or end-user statement

end-user and end-use documentation

documents whose purpose is to identify, authorize and commit to certain undertakings end-users of internationally transferred small arms or light weapons

NOTE Includes end-user certificates, end-user statements and delivery verification certificates.

end-user

the ultimate recipient of an international transfer of small arms or light weapons

end-user, authorized

the end-user to whom both the exporting and importing States give permission to receive a consignment of small arms or light weapons

NOTE 1 The exporting State authorizes an end-user by naming it in the export authorization. The importing State does so by issuing an end-user certificate or certifying an end-user statement.

NOTE 2 If small arms are intended for commercial sale in the country of import, the importer of the weapons may be considered to be the authorized end-user.

end-user certificate

an official document, issued by a competent national authority of the importing State, that identifies a government agency of the importing State as the ultimate recipient of an international transfer of small arms or light weapons

end-user statement

a document, issued by a private end-user, that provides assurances regarding the end user and end-use of internationally transferred small arms or light weapons

end-user statement, certified

an end-user statement that has been stamped and signed (or otherwise certified) by a competent national authority of the importing State

verification

checking that the content of end-use documentation is accurate

NOTE cf. authentication

3.2 Abbreviated terms

AWB	Air Waybill
BL	Bill of Lading
EUC	End-User Certificate
EUS	End-User Statement
DVC	Delivery Verification Certificate
IIC	International Import Certificate
MANPADS	Man-Portable Air-Defence Systems

3.3 Use of terms

In all ISACS modules, the words 'shall', 'should', 'may' and 'can' are used to express provisions in accordance with their usage in International Organization for Standardization (ISO) standards.

- a) **“shall” indicates a requirement:** It is used to indicate requirements strictly to be followed in order to conform to the document and from which no deviation is permitted.
- b) **“should” indicates a recommendation:** It is used to indicate that among several possibilities one is recommended as particularly suitable, without mentioning or excluding others, or that a certain course of action is preferred but not necessarily required, or that (in the negative form, 'should not') a certain possibility or course of action is deprecated but not prohibited.
- c) **“may” indicates permission:** It is used to indicate a course of action permissible within the limits of the document.
- d) **“can” indicates possibility and capability:** It is used for statements of possibility and capability, whether material, physical or casual.

4 United Nations framework**4.1 General**

This document provides practical guidance on the implementation of commitments related to end-user and end-use controls that are contained in United Nations multilateral instruments related to small arms and light weapons control.

4.2 UN Programme of Action

In the United Nations *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (UN Programme of Action), all UN Member States commit themselves

- a) “To put in place and implement adequate laws, regulations and administrative procedures to ensure the effective control over the export and transit of small arms and light weapons, including the use of authenticated end-user certificates and effective legal and enforcement measures.” (Part II, paragraph 12); and
- b) “To make every effort, in accordance with national laws and practices, without prejudice to the right of States to re-export small arms and light weapons that they have previously imported, to notify the original exporting State in accordance with their bilateral agreements before the retransfer of those weapons” (Part II, paragraph 13).

4.3 UN Disarmament Commission

The Guidelines for International Arms Transfers developed by the UN Disarmament Commission stipulate that

- a) “All arms-transfer agreements and arrangements, in particular between Governments, should be designed so as to reduce the possibility of diversion of arms to unauthorized destinations and persons. In this context, a requirement by the exporter for import licences or verifiable end-use/end-user certificates for international arms transfers is an important measure to prevent unauthorized diversion” (A/51/42 of 22 May 1996, paragraph 33).

4.4 UN Secretary-General

In his 2008 report to the Security Council on small arms, the UN Secretary-General recommended that

- a) “The Security Council may wish to consider encouraging States to significantly enhance their efforts to verify end-user certificates. They should develop an international framework for authentication, reconciliation and standardization of end-user certificates” (S/2008/258 of 17 April 2008, Recommendation 11).

5 General principals

Effective national control shall be exercised over the end-user and end-use of internationally transferred small arms and light weapons so as to minimize the risk that such weapons could be

- a) diverted to an entity other than the end-user authorized by both the exporting and the importing States; or
- b) used for a purpose other than the end-use authorized by both the exporting and importing States.

National controls over the international transfer of small arms and light weapons shall be exercised in accordance with ISACS 03.20 [Normative Reference] and this document, taken together.

NOTE This document supplements ISACS 03.20 by providing specific guidance on exercising control over the end-user and end-use of internationally transferred small arms and light weapons so as to minimise the risk of their being diverted or misused. This document does not repeat guidance provided in ISACS 03.20, although it does make reference to such guidance where appropriate.

End-user and end-use control shall be exercised over all goods and services set out in **Clause 6.3 of ISACS 03.20**, *National controls over the international transfer of small arms and light weapons*. [Normative Reference]

6 End-user and end-use documentation

6.1 General

End-user and end-use documentation comprises documents whose purpose is to identify, authorize and commit to certain undertakings end-users of internationally transferred small arms or light weapons. Such documentation includes end-user certificates, end-user statements and delivery verification certificates.

6.2 End-user certificate

6.2.1 General

An end-user certificate is an official document, issued by a competent national authority of the importing State, that identifies a government agency of the importing State as the ultimate recipient of an international transfer of small arms or light weapons.

Authorization to export small arms or light weapons to an agency of a foreign government shall not be granted without the provision of an original end-user certificate.

A single end-user certificate shall not be used in connection with the international transfer of more small arms or light weapons than are itemized on it (i.e. it shall not be re-used once the international transfer for which it was originally intended has been completed).

6.2.2 Related documents

An import authorization that complies with [Clause 7.6 of ISACS 03.20](#) and that, in addition, complies with [Clause 6.2.5](#) of this document, may serve the purpose of an end-user certificate.

An International Import Certificate (IIC) shall not substitute for an end-user certificate unless it complies with [Clause 6.2.5](#) of this document.

6.2.3 Issuing agencies

The number of government agencies authorized to issue end-user certificates shall be kept to a minimum. Within each authorized agency, the number of officials with authority to sign end-user certificates shall also be kept to a minimum.

6.2.4 Form of an end-user certificate

End-user certificates shall be official, government documents whose authenticity it is possible to establish and which are difficult to forge or falsify. They should be printed on

- a) an official government form;
- b) the official letterhead of the competent national authority issuing them; or
- c) difficult to forge paper, such as banknote paper.

6.2.5 Content of an end-user certificate

An end-user certificate shall contain

- a) identifiers of the certificate, including
 - 1) a reference number unique to the issuing government agency,

ISACS 03.21:2011(E) – draft 3.0

- 2) its date of issuance, and
 - 3) its date of expiration (which should be 1 year or less following the date of issuance);
- b) identifiers of the issuing government agency, including
- 1) the name, address and contact details (telephone, fax and email) of the government agency issuing the certificate, and
 - 2) the signature, printed name and position of the authorized representative of the government agency issuing the certificate;
- c) identifiers of the end-user and end-use, including
- 1) the name, address and contact details (telephone, fax and email) of the end-user,
 - 2) the signature, printed name and position of the authorized representative of the end-user (if different from the government agency issuing the certificate), and
 - 3) a description of the end-use;
- d) identifiers of the exporter, including
- 1) the country of export, and
 - 2) the name, address and contact details (telephone, fax and email) of the exporter;
- e) identifiers of the weapons, including
- 1) the contract or purchase order number,
 - 2) the value of the consignment,
 - 3) quantities,
 - 4) makes,
 - 5) models,
 - 6) calibres,
 - 7) types (e.g. revolver, pistol, rifle, sub- machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti- aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.), and
 - 8) actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated);
- f) explicit undertakings that
- 1) the declared end-user will be the ultimate recipient of the weapons,
 - 2) the declared end-use will be the ultimate use of the weapons, and
 - 3) the weapons will not be (re-)exported
 - under any circumstances,
 - without prior, written authorization from the original exporting State,

- without prior, written notification to the original exporting State, or
- if the weapons are intended for commercial sale in the importing State, without due export authorization.

An end-user certificate should contain undertakings

- g) to provide the exporting State with a delivery verification certificate upon the successful import of the weapons (see **Clause 7.2**); and
- h) to allow the exporting State to check on the end use of the weapons as a confidence-building measure (see **Clause 7.3**).

An end-user certificate may contain an undertaking

- i) that end-use will be limited to, or will exclude, a specific geographic location (or specific locations) within the importing State.

6.3 End-user statement

6.3.1 General

An end-user statement is a document issued by a private end-user that provides assurances regarding the end user and end-use of internationally transferred small arms or light weapons.

If weapons are intended for commercial sale in the country of import, the importer of the weapons may be listed as the end-user and a designation such as “commercial sale on the domestic market” may be used as a description of the end-use.

A certified end-user statement is an end-user statement that has been stamped and signed (or otherwise certified) by a competent national authority of the importing State.

Authorization to export small arms or light weapons to a private, nongovernmental entity shall not be granted without the provision of an original, certified end-user statement.

A single, certified end-user statement shall not be used in connection with the international transfer of more small arms or light weapons than are itemized on it (i.e. it shall not be re-used once the international transfer for which it was originally intended has been completed).

6.3.2 Form of an end-user statement

An end-user statement should be printed on

- a) an official form made available by the government of the importing State; or
- b) the official letterhead of the private entity issuing the end-user statement.

6.3.3 Certification procedure

The number of government agencies authorized to certify end-user statements shall be kept to a minimum. Within each authorized agency, the number of officials with authority to certify end-user statements shall also be kept to a minimum.

An end-user statement shall not be certified by the importing State unless sufficient measures have been taken to verify its authenticity, accuracy and reliability, including by verifying that the end-user

- a) exists,

ISACS 03.21:2011(E) – draft 3.0

- b) does not have a criminal record (natural person) or has not been involved in illegal activities, including the illicit trade in small arms or light weapons (legal person); and
- c) is legally entitled to take possession of the weapons to be imported.

6.3.4 Content of an end-user statement

An end-user statement shall contain

- a) identifiers of the statement, including
 - 1) a reference number unique to the issuer of the statement, and
 - 2) its date of issuance;
- b) identifiers of the end-user and end-use, including
 - 1) the name, address and contact details (telephone, fax and email) of the end-user,
 - 2) the signature, printed name and position of the authorized representative of the end-user, and
 - 3) a description of the end-use (which may include commercial sale on the domestic market);
- c) identifiers of the exporter, including
 - 1) the country of export, and
 - 2) the name, address and contact details (telephone, fax and email) of the exporter;
- d) identifiers of the weapons, including
 - 1) the contract or purchase order number,
 - 2) the value of the consignment,
 - 3) quantities,
 - 4) makes,
 - 5) models,
 - 6) calibres,
 - 7) types (e.g. revolver, pistol, rifle, sub- machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti- aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.), and
 - 8) actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated); and
- e) explicit undertakings that
 - 1) the declared end-user will be the ultimate recipient of the weapons (notwithstanding the fact that they may be commercially sold on the domestic market); and
 - 2) the declared end-use will be the final use of the weapons.

An end-user statement should contain

- f) an undertaking to provide the exporter with a delivery verification certificate upon the successful import of the weapons (see **Clause 7.2**).

6.3.5 Content of a certified end-user statement

A certified end-user statement shall contain the elements set out in **Clause 6.3.4** along with an official certification by a competent national authority of the importing State.

An end-user statement shall not be certified before the competent national authority has satisfied itself regarding its authenticity, accuracy and reliability (see **Clause 6.3.3**).

To certify an end-user statement, the competent national authority of the importing State shall mark upon it

- a) the official stamp/seal, name, address and contact details (telephone, fax and email) of the competent national authority certifying the statement;
- b) the signature, printed name and position of the authorized representative of the competent national authority certifying the statement;
- c) a unique certification number;
- d) the date of certification; and
- e) an expiration date for the certification, which should be **one year or less** following the date of certification.

6.4 Authentication and verification

6.4.1 General

A State that receives an end-user certificate or certified end-user statement as part of an application for authorization to export small arms or light weapons shall

- a) authenticate it, i.e. check if it has been forged or tampered with; and
- b) verify it, i.e. check that its contents are accurate.

Authorization to export small arms or light weapons shall not be granted before the end-user certificate or certified end-user statement has been authenticated and verified.

Authentication and verification shall be carried out only on original end-user certificates and certified end-user statements.

6.4.2 Authentication

Checks shall be conducted on the authenticity of

- a) the government agency of the importing State that
 - 1) has issued or certified the document, and
 - 2) is named as the end-user (if different from 1 above);
- b) the stamp/seal of the government agency of the importing State that has issued or certified the document; and

- c) the signature, name and position of the representative of the government agency of the importing State that has issued or certified the document.

6.4.3 Verification

Checks shall be conducted on the accuracy of information related to

- a) the end-user, including
- 1) its existence,
 - 2) its legal standing,
 - 3) the existence of its designated representative (i.e. the person who signed on behalf of the end-user) and of his/her position,
 - 4) any links the end-user might have with illegal activities, including the illicit trade in small arms and light weapons, corruption, etc., and
 - 5) the compatibility of the end-user and end-use with the
 - types of small arms or light weapons to be exported, and
 - the export control policies of the exporting State;
- b) the exporter, including
- 1) its existence,
 - 2) its legal standing, and
 - 3) any links the exporter might have with illegal activities, including the illicit trade in small arms and light weapons, corruption, etc., and
- c) undertakings made, including by checking the record of the end-user in abiding by previously made undertakings regarding, as applicable,
- 1) end-use,
 - 2) (re-)export,
 - 3) delivery verification, and
 - 4) post-delivery monitoring.

6.4.4 Sources of information and timeframe

Authentication and verification of end-user certificates and certified end-user statements should be conducted using information available through

- a) working-level government contacts in the importing State (especially its National Point of Contact on small arms and light weapons);
- b) consular and diplomatic channels; and
- c) public sources (e.g. nongovernmental, media and other sources, including on the internet).

Upon request, the importing State should assist the exporting State in the authentication and verification processes.

The authentication and verification processes should be undertaken impartially, fairly and within a reasonable period of time.

6.4.5 Control lists

Export control authorities should maintain a list of end-users of small arms and light weapons that have not abided by undertakings previously made in end-user certificates or certified end-user statements, in particular related to

- a) end-use,
- b) (re-)export,
- c) delivery verification, and
- d) post-delivery monitoring.

6.5 Simplified procedures

Simplified procedures may be employed to control the end-use of small arms and light weapons in the following, low risk situations:

- a) temporary exports and imports of individual or small numbers of small arms or light weapons for the purposes of hunting, sport shooting, evaluation, exhibition or repair; as well as their subsequent re-export and re-import following such activities and procedures;
- b) exports of small arms or light weapons for use by the exporting State's own security or military forces (e.g. in the context of United Nations or regional peace support operations); or
- c) exports of small arms or light weapons to trusted end-users with longstanding and reliable records on the prevention of diversion and misuse of small arms and light weapons.

The application of simplified procedures shall be kept to a minimum and should not exceed those listed above.

6.6 Strengthened controls over the end-use of MANPADS

Because of the heightened threat posed by Man-Portable Air Defence Systems (MANPADS), especially to civil aviation, stricter national controls shall be applied to their end-use.

The end-users of MANPADS shall only be governments or agents explicitly authorized to act on behalf of governments.

Simplified procedures (see Clause 6.5) shall not apply to exercising national controls over the end-user and end-use of MANPADS.

An end-user certificate for MANPADS shall include undertakings by the end-user

- a) to provide the exporting State with a delivery verification certificate (see Clause 7.2); and
- b) not to (re-)export the weapons without prior, written authorization from the original exporting State.

NOTE See Clause 5.7 of ISACS 03.20, *National controls over the international transfer of small arms and light weapons*, for further guidance on transfer controls of MANPADS.

6.7 Grounds for denial

6.7.1 General

An application for authorization to export small arms or light weapons shall not be granted if an end-user certificate or end-user statement

- a) has not been provided in original;
- b) has not been issued or certified by a competent government authority of the importing State;
- c) has been forged or otherwise tampered with;
- d) contains false or otherwise inaccurate information; or
- e) lists an end-user that appears on a control list (see **Clause 6.4.5**).

The reasons for rejecting an end-user certificate or end-user statement should be provided to the affected party in writing. It should be possible for the affected party to appeal such a decision.

6.7.2 Criminal acts

In cases where criminal acts (e.g. forgery, fraud, corruption, etc.) are suspected in connection with the submission of an end-user certificate or end-user statement,

- a) the government of the importing State shall be informed;
- b) criminal proceedings shall be initiated in the importing and/or exporting State, as applicable; and
- c) the end-user shall be placed on a control list (see **Clause 6.4.5**) pending the outcome of investigations.

NOTE See **Clause 8** for further guidance on national legislation.

7 Post-delivery controls

7.1 General

Following an international transfer of small arms or light weapons, the exporting State should verify that

- a) the weapons have been received by the importing State; and
- b) the end-user is abiding by undertakings it made in the end-user certificate or certified end-user statement.

The government agency responsible for conducting post-delivery controls of exported small arms and light weapons should be the same agency that is responsible for authorizing exports of small arms and light weapons.

The findings and results of post-delivery controls conducted by exporting States should inform their evaluation of subsequent applications for authorization to export small arms and light weapons.

7.2 Delivery verification

7.2.1 General

Verification of delivery of a consignment of small arms or light weapons to an authorized end-user in another State should be provided by means of a delivery verification certificate (DVC).

A delivery verification certificate is a document, certified by customs or other competent authority of the importing State, confirming that internationally transferred small arms or light weapons have been successfully imported.

An exporter of small arms or light weapons, whether a government or private entity, should require a delivery verification certificate as proof that the weapons have been successfully imported. To this end, an undertaking by the end-user to provide a delivery verification certificate should be included in the end-user certificate or end-user statement.

7.2.2 Procedure and timeframe

When an end-user certificate or end-user statement includes an undertaking to provide the exporter with a delivery verification certificate,

- a) the end-user, upon clearing the consignment through customs and taking possession of it, should request the customs administration or other competent authority of the importing State to issue a delivery verification certificate;
- b) the customs administration or other competent authority of the importing State should, upon receiving such a request, verify all relevant documentation and, if satisfied, issue a delivery verification certificate to the end-user; and
- c) the end-user should provide the exporter with an original of the delivery verification certificate.

The exporter should receive the delivery verification certificate within **30 days** of the consignment being cleared through customs by the end-user.

7.2.3 Issuing agencies

The number of government agencies authorized to issue delivery verification certificates shall be kept to a minimum. Within each authorized agency, the number of officials with authority to sign delivery verification certificates shall also be kept to a minimum.

7.2.4 Content of a delivery verification certificate

A delivery verification certificate should contain

- a) a unique indentifying number;
- b) the name, address and contact details (phone, fax and email) of the
 - 1) exporter, and
 - 2) end-user;
- c) the import authorization number;
- d) the bill of lading (BL) number or air waybill (AWB) number;
- e) the consignment's
 - 1) place of arrival (name of port),

- 2) date of arrival, and
 - 3) means of arrival (including descriptors of the ship, aircraft or other carrier as they appear in the bill of lading or air waybill);
- f) a description of the consignment, including
- 1) the contract or purchase order number,
 - 2) quantities,
 - 3) makes,
 - 4) models,
 - 5) calibres,
 - 6) types (e.g. revolver, pistol, rifle, sub- machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti- aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.), and
 - 7) actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated);
- g) the stamp/seal of the customs administration or other competent authority of the importing State;
- h) a certification by the customs administration or other competent authority of the importing State that the consignment, as itemized, has been imported;
- i) the date of certification; and
- j) the signature, printed name and position of the authorized representative of the customs administration or other competent national authority making the certification.

7.2.5 Verification and authentication

7.2.5.1 General

An exporter that receives a delivery verification certificate following an international transfer of a small arms or light weapons shall

- a) authenticate it, i.e. check if it has been forged or tampered with; and
- b) verify it, i.e. check its consistency with the end-user certificate or certified end-user statement in order to verify that all weapons in the consignment were imported.

7.2.5.2 Authentication

Checks shall be conducted on the authenticity of

- a) the seal of the customs administration or other competent authority of the importing State that has certified the document; and
- b) the signature, name and position of the representative of the customs administration or other competent authority of the importing State that has certified the document.

7.2.5.3 Verification

Checks shall also be conducted on the consistency of the delivery verification certificate with the end-user certificate or certified end-user statement, in order to verify

- a) the identity of the end-user;
- b) the identity of the exporter; and
- c) that all weapons in the consignment were successfully imported.

7.3 Post-delivery inspection

7.3.1 General

Following the international transfer of small arms or light weapons, the exporting State may conduct inspections in order to verify that the end-user is abiding by undertakings it made in the end-user certificate or end-user statement, in particular regarding the end-user, end-use and re-export.

An undertaking to allow such post-delivery inspections may be included in an end-user certificate or end-user statement and should be included if the weapons being transferred are MANPADS.

Post-delivery inspections shall only take place with prior, written authorization by the importing State. The importing State should provide such authorization if an exporting State makes a request to conduct a post-delivery inspection. The exporting State shall provide such authorization if it has made an undertaking in an end-user certificate or certified end-user statement to allow such inspections.

7.3.2 Inspectors

Post-delivery inspections in the importing State may be carried out by

- a) officials of the exporting State;
- b) contractors hired by the exporting State; or
- c) an independent party, governmental or non-governmental, mutually agreed upon by the exporting and importing States.

7.4 Restrictions on re-export

Authorization shall not be granted to export previously imported small arms or light weapons if this would go against undertakings made in an end-user certificate or end-user statement.

In cases where an end-user certificate or end-user statement does not contain undertakings regarding re-export, authorization should not be granted to export previously imported small arms or light weapons without first informing the original exporting State.

8 National legislation

8.1 General

At the national level, laws, regulations and administrative procedures shall exercise effective control over the end-user and end use of internationally transferred small arms and light weapons. Such controls shall be adequate to minimize the risk that small arms and light weapons could be diverted to unauthorized end-users or used in a manner inconsistent with their authorized end-use.

Laws, regulations and administrative procedures governing end-user and end-use controls shall form an integral part of broader national legislation governing transfer controls of small arms and light weapons, in accordance with ISACS 03.20, *National controls over the international transfer of small arms and light weapons*. [Normative Reference]

8.2 Key elements

To this end, national legislation should require that

- a) end-use controls be applied to all goods and services contained in the national small arms and light weapons control list (see **Clause 6.3 of ISACS 03.20**, *National controls of the international transfer of small arms and light weapons*);
- b) authorization to export small arms and light weapons not be provided without
 - 1) the provision of an original end-user certificate or original, certified end-user statement,
 - 2) an undertaking by the importer to provide a delivery verification certificate, and
 - 3) an undertaking by the importing State to allow post-delivery inspections (this shall be required in the case of MANPADS); and
- c) end-user certificates and certified end-user statements received in connection with applications for authorization to export small arms and light weapons be authenticated and verified (see **Clause 6.4**).

8.3 Offences

Under domestic law, it should be considered a criminal offence to knowingly

- a) forge an end-user certificate, end-user statement (certified or not) or delivery verification certificate;
- b) change the content of an end-user certificate, end-user statement or delivery verification certificate after it has been signed and certified by all parties;
- c) use an end-user certificate, end-user statement or delivery verification certificate under false pretences to facilitate the diversion of small arms or light weapons from their authorized end-user or end-use;
- d) violate undertakings made in an end user certificate or certified end-user statement;
- e) use an end-user certificate or certified end-user statement in connection with the international transfer of small arms or light weapons in excess of, or other than, those itemized on the end-user certificate or certified end-user statement; or
- f) re-use an end-user certificate or certified end-user statement after the international transfer for which it was originally intended has been completed.

8.4 Enforcement mechanisms

Mechanisms to promote and enforce compliance with laws, regulations and administrative procedures related to controlling the end-user and end-use of internationally transferred small arms and light weapons shall be in place at the national level, in accordance with **Clause 11 of ISACS 03.20**, *National controls of the international transfer of small arms and light weapons*. [Normative Reference]

9 Recordkeeping

Both the exporting and importing States shall keep comprehensive, accurate and readily retrievable records of

- a) end-user certificates;
- b) certified end-user statements;
- c) delivery verification certificates; and
- d) post-delivery inspections.

Records shall be kept in accordance with **Clause 5 of ISACS 05.30**, *Marking and recordkeeping* [Normative Reference]

Records shall be maintained for at least 20 years, and should be maintained indefinitely.

Bibliography

United Nations

1. UNDP. *How To Guide: Small Arms and Light Weapons Legislation*. Geneva: United Nations Development Programme, 2008.
2. UNODC. *Legislative Guides for the Implementation of the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*. New York: United Nations Office on Drugs and Crime, 2004.

International & Regional Organizations

3. APEC. *Guidelines On Controls And Security Of Man-Portable Air Defense Systems (MANPADS)*. Asia-Pacific Economic Cooperation, Document 2004/AMM/035, 2004.
4. EU. *User's Guide to European Union Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment*. Brussels: Council of the European Union, 2009.
5. OAS. *Guidelines On Controls And Security Of Man-Portable Air Defense Systems (MANPADS)*. Organization of American States, Document OEA/Ser.G, CP/CSH-719/05, 2005.
6. _____. *Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition (Updated)*. Washington, DC: Organization of American States, 2006.
7. _____. *Model Legislation and Commentaries for Strengthening Controls at Export Points for Firearms, Ammunition, Explosives and other Related Materials*. Washington, DC: Organization of American States, 2008.
8. OSCE. *Best Practice Guide on Export control of small arms and light weapons, in Handbook of Best Practices on Small Arms and Light Weapons*. Vienna: Organisation for Security and Co-operation in Europe, 2003.
9. _____. *Standard Elements of End-User Certificates and Verification Procedures for SALW Exports*. Vienna: Organisation for Security and Co-operation in Europe, Forum for Security Co-operation, Decision No. 5/04, 2004.
10. _____. *Principles for Export Controls of MANPADS (Updated)*. Vienna: Organisation for Security and Co-operation in Europe, Forum for Security Co-operation, Decision No. 5/08, 2008.
11. RECSA. *Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons*. Nairobi: Regional Centre on Small Arms, 2006.
12. SARPPCO. *Standard Operating Procedures for the implementation of the SADC Protocol on the Control of Firearms, Ammunition and other related materials*. Harare: Southern African Regional Police Chiefs Cooperation Organisation, 2008.
13. SEESAC. *Regional Micro-Disarmament Standards and Guidelines (modules 03.20 and 03.30)*.

Belgrade: South Eastern and Eastern Europe Clearinghouse on the Control of Small Arms and Light Weapons, 2006.

14. WASSENAAR ARRANGEMENT. *Best Practices for Effective Enforcement of Export Controls*. Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2000.
15. _____. *Best Practice Guidelines for Exports of Small Arms and Light Weapons* (amended). Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2007.
16. _____. *Best Practices to Prevent Destabilising Transfers of Small Arms and Light Weapons (SALW) through Air Transport*. Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2007.
17. _____. *Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS)*. Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2007.
18. _____. *End-User Assurances Commonly Used: Consolidated Indicative List* (Updated). Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2005.

Other Sources

19. BROMLEY, M. and GRIFFITHS, H. *End-User Certificates: Improving Standards to Prevent Diversion*. SIPRI Insights on Peace and Security No. 2010/3. Stockholm: Stockholm International Peace Research Institute, 2010.