

From: Patrick Mc Carthy <notifications@un-casa-isacs.basecampHQ.com>
Subject: [Phase 1 - International Small Arms Control Standards (ISACS)] Re: Cleared by CASA: ISACS 03.30 - National controls over the access of civilians to small arms and light weapons
Date: December 8, 2011 at 8:24:08 AM PST
Reply-To: Phase 1 International Small Arms Control Standards ISACS

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Project: [Phase 1 - International Small Arms Control Standards \(ISACS\)](#)
Company: UN CASA



Patrick Mc Carthy commented on the message:

[Cleared by CASA: ISACS 03.30 - National controls over the access of civilians to small arms and light weapons](#)

Many thanks to Joe, Gary, Richard, David and Vito for their feedback on draft 3.0 of this module. As was the case during the first round of review, I anticipate another lively debate.

General remarks

The purpose of this module is to provide UN CASA partners with a standardized set of guidance that they can use when called upon to support UN Member States in establishing or reforming national controls over the access of civilians to SALW. This guidance and, by extension, this module is needed by CASA partners.

Response to Joe Green

I see no problem in incorporating your suggestions.

Response to Vito Genco

Your comments underline points made by Gary, Rick and David and are well taken. I elaborate on them in my responses below.

Response to Gary Mauser

You accept the principle that civilian firearms must be regulated and you find it reasonable that they should be kept from criminals, the mentally unstable and children. I would venture to say that these views are also held by everyone involved in

developing ISACS. This is the common ground on which we have to build.

You take issue with the module's claim (in the intro.) that "Inadequate national controls over civilian access to small arms and light weapons is a factor in their global, illicit trade." Yet you also accept that this may be one factor among many. It is one factor among many, just as this is one module among many, which, taken together, attempt to cover all the main factors. Criticizing this module for focusing exclusively on civilians is like criticizing the module on stockpile management (another factor among many) for focusing exclusively on stockpile management. The purpose of ISACS is to provide comprehensive guidance on controlling the full life-cycle of SALW. Civilian access is just one piece of the puzzle.

I take issue with your accusation of "long-standing bias" in the UN (by the way, the publication you cite in support of this claim was published by UNDP, not UNODA). The UN is biased only towards protecting civilians from the unregulated proliferation and misuse of small arms and light weapons.

I would disagree with your claim that the module encourages a "thoroughgoing distrust of responsible citizens." Rather, it recognizes that, unfortunately, there are also irresponsible citizens who carry a higher risk of misusing small arms, to the detriment of responsible citizens. The module tries to provide guidance on making the distinction.

Response to Rick Patterson

Reading your comments, I regret my initial instruction not to review the module in detail at this point. I would indeed be very interested in having more detailed comments from you on some of the points you raise, in particular:

Definitions: Please do help with improving the definitions, in particular of terms you mention (automatic, semi-automatic, armour-piercing, sport shooting, etc.). But you should bear in mind that some definitions are based on text that has already been agreed by UN Member States (one example is "light weapon," which as you correctly point out includes some types of weapons that can be carried and used by one person, e.g. "hand-held under-barrel and mounted grenade launchers"). Where definitions are based on text agreed by UN Member States, this is indicated underneath the definition. Your comments on the definition of "possession" are well taken.

You and Gary refer to (unnamed) countries that encourage citizens to possess automatic weapons to help with national defence. If you are referring to government militias, these citizens would not fall under the definition of "civilian" as given in the

module — "natural person who is not an active member of an armed service of a State" — and so would not fall under the module's scope.

You ask, "what crime problem exists that is solved by banning possession of ammunition if you don't have a firearm for that ammunition?" No crime problem would be "solved" by such a measure, but it would restrict the supply of ammunition to unlicensed weapons.

And to your question, "if self-protection is permitted by law, then why would there be a need to prove you have a right to defend yourself," a possible answer could be: because the law could require a need to be specified, as it does in many countries.

Your comments on "safe storage" and "keeping children safe" seem to reject out of hand the notion that the right to possess a small arm brings with it certain responsibilities. The module, on the other hand, is based on the fact that with rights come responsibilities. For example, the responsibility of storing small arms securely and of informing the police if you lose a weapon or have one stolen from you. Such responsibilities are designed to protect people who might otherwise be put in danger by these weapons, e.g. children or victims of crime, respectively.

Response to David Penn

You are correct that "prevent" is the wrong word to use in the introductory sentence, "It is the responsibility of every State to ensure that its regulations are sufficient to **prevent** the unlawful possession and misuse of small arms by civilians and the diversion of civilian small arms into the illicit market." You suggest "limit" as an alternative. "Minimize" could also work.

On marking, you argue that it would be onerous and expensive to mark all small arms in private hands according to ISACS 05.30 and suggest that this would only need to be done if arms are permanently exported. I can certainly see the sense in this if the marking that a small arm already possesses is sufficient to allow a domestic trace of the weapon if it is recovered in crime.

Your point on waiting periods, also mentioned by Gary and Rick, are well taken in the context of a functioning licensing system; as is your comment on legitimate disposal of small arms whose licences are not renewed. I also take your point that a licensing system should not alienate or discourage the legitimate user, while bearing in mind that regulatory systems — such as those covering travel abroad (applying for a passport) or the ownership of a car (lessons, tests, licensing, registration, insurance and tax) —

necessarily require people to jump through some hoops and meet certain requirements.

The question of age-limits has been brought up by everyone who commented above on this thread, due to the variation in national practice on this, especially in countries where there is a tradition of introducing people to hunting at an early age.

You say that a licensing system "may at least encourage good practice relating to secure storage and safe and responsible use by the law-abiding," that it should be "an enabling mechanism for the legitimate user," and that it should be "user-friendly, affordable and proportionate to the type of firearm in question." These are indeed the principles to which this module aspires, although it would seem we have some more work to do.

Conclusion

There is significant opposition in the Phase 1 Expert Reference Group (ERG) to having this module advance in its current draft state to the final round of review. These objections revolve around what is perceived to be an inflexible, one-size-fits-all approach; an overly bureaucratic approach that will not bring benefits relative to its cost of implementation, definitional problems, etc.

Although it may be the case that other members of the Phase 1 ERG have remained silent on this thread due to the fact that they have no objection to advancing the module to the next round, we must make a good faith effort to address the objections that have been raised above, while keeping to our goal of providing clear, practical guidance, to UN Member States that request it, on minimizing the unlawful possession and illegal use of small arms by civilians and the diversion of civilian small arms into the illicit market.

From reading the above comments, I have some ideas on how some of these gaps might be narrowed and I will rely on other members of the ERG to suggest their own ideas by continuing this discussion thread.

The current draft 3.0 of this module will therefore not advance to its final review. Instead, a revised draft 3.1 will be prepared taking into account concerns raised above, as well as any subsequent comments posted below. Given the ongoing work on other modules — that additional work on this module cannot be allowed to delay — it is not possible at this point to estimate when draft 3.1 will be ready, but I will update you on this when the picture is clearer.

In the meantime, we will continue with the advancement of other modules.

Best regards,

Patrick Mc Carthy
ISACS Coordinator

This comment was sent to Adrian Wilkinson, Adèle Kirsten, Afi Azaratu Yakubu, Alison August Treppel, Ananda Millard, Angus Urquhart, Anthony Simpson, Bernhard Mozer, Carl E. Case, Cate Buchanan, Clara Inés Vargas Silva, Control ERG, Cédric Poitevin, David J. Penn, Deepayan Basu Ray, Dejan Raketic, Edward Laurance, Eric Berman, Faiz Paktian, Francis Sang, Fred Lubang, Gary Fenton, Gary Mauser, Gilbert Barthe, Glenn McDonald, Guy Lamb, Helena Vazquez, Henny van der Graaf, Ian Davis, Ian Ruddock, Ilhan Berkol, James Bevan, Jesse James, Joe Green, Jon Trumble, Klaus Ljørring Pedersen, Larry Attree, Mansour Ali Sultan, Maria Brandstetter, Mark Bromley, Mark Westrom, Mathew Geertsen, Michael Ashkenazi, Miguel Barreiro Laredo, Nathalie Prévost, Nohra Maria Quintero Correa, Oistein Moskvil Thorsen, Patrick Mc Carthy, Paul Galveias, Paul J. Shott, Prasenjit Chaudhuri, Rebecca Peters, Richard Patterson, Roberto Dondisch, Roy Isbister, Sarah Parker, Sergio Suarez Roa, Simon Rynn, Stuart Casey-Maslen, Thierry Jacobs, Tracy Hite, Valerie Yankey-Wayne, Vincent Choffat, Vito Genco, Wendy Cukier, and Wolf-Christian Paes.

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