

SAAMI[®]

SPORTING ARMS AND AMMUNITION MANUFACTURERS' INSTITUTE, INC.

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CASA
Via Email

Dear Patrick:

Thank you for your reply. I appreciate the dialogue on the points mentioned in the SAAMI Report. In your responses you raise a couple of valid points, however we clearly do not agree on all points (as indicated in my comments below). The most important thing I am compelled to remind you is these clauses are just a small and rather random selection from 791 pages of text. For ISACS to be what it claims, every clause requires this same level of dialogue and focus. The short timeframes have not allowed this level of effort.

Even if we step back for a minute and ignore differences in interpretation of ISACS content, the fact remains that different people have read the same ISACS and had very different interpretations. This alone is illustrative of ISACS failure as good guidance. And this is one of the reasons neither I nor SAAMI can continue to have our name associated with the project.

To try to make this easier to follow, I have included the passage from the SAAMI report, followed by your response, followed by SAAMI's comment to your response. If you have any questions, please don't hesitate to contact me.

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

This comment conflates retroactive marking with marking. Marking at the time of manufacture is hardly retroactive. Nor is marking at the time of import or transfer to permanent civilian use; all of which are called for by the International Tracing Instrument and the UN Firearms Protocol.

COMMENT: I agree that 05.30 (Draft 3.0), section 4.1.1 requires marking “at the time of manufacture.” This, of course, would *not* be retroactive. HOWEVER, if a firearm is not marked when it was manufactured, section 4.2.1 (b.) requires it to be marked with all of the information required in 4.2.1.1.1 at the time of import. Additionally, according to the strict reading of this module, 4.2.1(c) through (e) also requires marking as shown in these subparts. Further, Sections 4.2, 4.3, 4.4, 4.5 and 4.6 define what types of markings are required at each of those stages.

I disagree with the comments about marking at the time of import or transfer as it would certainly *be* a retroactive application of a serial number, etc., regardless of the source or origin of the numbers applied. [See sections 4.3.2 and 4.4.2.2.] I will need to assess the UN Firearms Protocol—and the conclusions of signatories to the Protocol—for more details about this portion of your comment.

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

This accusation is unfounded, for the reasons set out below. The ISACS project works to tight, but reasonable, deadlines, due to the volume of work to be completed.

COMMENT: As stated above, the timelines do not allow the dialogue and evaluation of each and every clause of each and every module.

3. The Modules call for purchase and use of fixed and/or mobile x-ray or gamma ray scanners at border crossings in an attempt to detect small arms smuggling (ISACS 05.60, Section 9.2.3(d)) without considering the cost and relative effectiveness of such.

ISACS 05.60 recommends these pieces of equipment at large border crossing points.

COMMENT: It’s better, but “large” is a subjective term which makes it difficult to interpret as guidance. Is it the largest number of people (San Ysidro, California USA)? Largest shipping

tonnage (Shanghai)? Both will likely have a very different interpretation of what “large” is than someone from, say, Torugart, Kyrgyzstan. Even if the project is limited to “large” border crossing points (however defined), the cost of such a project will be great and the proven effectiveness of the searches performed will be questionable, especially when one considers the massive amounts of machines, metal parts, vehicles, etc. that pass through border crossings every day and that can be used to mask searches for SALW.

4. The Modules would require that sport shooting associations only exist if licensed by the State, thus precluding numerous amateur, informal or local involvements in the sport. (ISACS 03.30, Section 7.2).

The relevant provision reads, "Sport shooting associations should be registered as legal entities and licensed by a competent State authority in order to be eligible to acquire and possess small arms that are used and/or stored at their premises" (emphasis added).

COMMENT: I think you make the point for me. Read together, the three paragraphs of 7.2 “Sport Shooting” make it clear that civilians cannot get a license unless they “regularly participate” in sport shooting; shooting associations “should” register in order to acquire and possess small arms that are “used” at their premises; and the third paragraph requires that sport shooting clubs must be “registered” **and** “licensed.” Taken together, it appears to be virtually impossible for a civilian to participate in the shooting sports unless each aspect of participation (e.g. the firearm, the firearm owner, and the club/association) is granted a government license and/or registration.

5. The Modules require that an importer mark a small arm with a serial number unique to the importing country. (ISACS 05.30, Section 4.3.2(c)) What this Module does not explain is how an importer can know what serial numbers are being used by other importers or by domestic manufacturers within their country since no mechanism for gathering and disseminating this information, either globally or locally, exists.

The module requires the marking of a serial number at the time of import only for weapons that are inadequately marked. It does not require the importer to apply the mark. Establishing a system to ensure uniqueness is up to the importing State.

COMMENT: I agree with your first sentence, but that does not address the point made in the SAAMI Report. Your second sentence seems to imply that the State will mark the firearm since

I cannot find reference to whom will do the marking. This is an example of poor drafting in that I'm certain that, if adopted, the importer will be required to mark the firearms. Your last sentence is exactly on point to the comment: how *can* a State know what other serial numbers are being used?

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

The term "clear risk" is used since it is the term that UN Member States have been using in preparatory work for an Arms Trade Treaty. If a different term is used in the negotiated ATT, the module will be revised accordingly.

COMMENT: I understand the use of “clear risk” in this context. In addition, the module identifies several “considerations” that could help to define what “clear risk” looks like (See paragraphs 5.4.5, *et seq.*). Having said that, however, the fact remains that the point raised in the SAAMI Report is a perfectly valid one. In fact, the issue is likely not that a “different term” should be used, it’s that there is *always* a risk with *any* shipment. In fact, there are so many issues with the drafted “considerations” that it appears a government employee making the decision could be accused of negligence if *any* shipment was diverted.

7. The Modules bar the subsequent resale, gift, bequest, or reshipment of a firearm by requiring shipment only if an end-user certificate is in place that restricts possession to the first stated end-user (ISACS 03.21, Section 6.2.5(f)).

The clause cited above refers exclusively to end-user certificates for shipments of weapons to government armed forces, not commercial shipments intended for resale, which is covered in clause 6.3.

COMMENT: I agree with the fact that 6.2.5(f) applies to “a government agency of the importing State as the ultimate recipient of an international transfer of SALW.” However the point is related to the rest of the SAAMI Report on this subject immediately below.

The Modules then void this prohibition by allowing groups to receive and dispose of firearms within the group (ISACS 03.21, Section 2.3.1) but does not give the same rights of transfer to disaggregated individuals.

There is no Section 2.3.1 in this module.

COMMENT: My apologies for the typo. Section 6.3.1 of module 3.21 addresses the concerns raised in the SAAMI Report since the seller, as a recipient of an end-user certificate, may aggregate the weapons under the category of “commercial sale on the domestic market” without further description of the end use. Disaggregated individuals do not have this same opportunity. The end result is as described in the SAAMI Report.

At the same time the Modules ask that an original small arms shipper not allow subsequent re-export of those products without explaining how the original shipper would be able to monitor and enforce such a restriction given that the re-shipment would now be initiated in a foreign country, outside the control of the shipper and possibly at a date decades after the original shipment. (ISACS 03.21, Section 6.2.5(f)(3))

The clause cited above does not require anything of the shipper. The undertakings related to re-export are to be provided by the competent State authority of the importing State that issues the end-user certificate.

COMMENT: Agreed. Section 6.2.1, et seq. indicates that the end-user certificates are issued by “a competent national authority of the importing state.” Further, it is that certificate that requires “explicit undertakings” regarding re-export, etc. While this may be more feasible for weapons used by the government of the country of import, it becomes problematic for sporting firearms owned by individuals—both for the logistics of keeping track (the buyer is not known at the time of import), and potential sovereignty laws for the country of export to have a right to track citizens of the country of import.

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

Incorrect. SALW surveys are intended to evaluate, through research, the need for strengthened controls. As stated in the introduction to the module cited above, "A small arms and light weapons survey collects and analyzes comprehensive quantitative and qualitative information on small arms and light weapons within a specific geographical area (e.g. region, country or community) with a view to determining the need for and nature of safe,

effective and efficient interventions by appropriate stakeholders."

COMMENT: Your response on its face clearly articulates that “strengthened controls” are needed. This preconceived notion is plainly visible. In addition, the SAAMI argument about local or regional data being interpolated for global use *only* when it suits them is also obvious in your response.

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

The above comment is based on a previous draft (3.0) of the module. During its final review, SAAMI provided feedback that led to the module being revised to its current draft 3.1, which has addressed these concerns.

COMMENT: I have not seen draft 3.1 of module 05.20, so I cannot comment on this response. If I can infer that the module has been redrafted and the comments resulted in changes, then I am happy about this result.

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

This is patently ridiculous. ISACS 03.30 clearly recognizes hunting and sport shooting, among other uses, as legitimate uses of small arms. The definition of "sport shooting" points out, in a note, that it is an Olympic sport.

COMMENT: Not as ridiculous as you make it sound, Patrick. While the definition of “sport shooting” makes reference to examples, such as being “part of the Olympic Games” and other “shooting competitions...organized at the International, national, regional and local club levels,” section 7.1 indicates that “legitimate uses *may* include...” and then lists additional examples, including sport shooting. (See 7.1 (a) through (f).) Read in connection with section 7.2, one must “regularly participate” in such activities before one can *apply* to obtain a license to engage in sport shooting. It’s not clear what hurdles will be in place for hunting, etc., but 7.1 indicates that there will be “[l]aws, regulations and administrative procedures for regulating the use of

small arms...that are deemed to be legitimate.” I believe that this may be poor drafting, or perhaps the result of circular logic/reasoning.

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

Incorrect. The clause cited above does not require a certificate of good conduct and does not require fingerprints of every employee (only of the applicant for a manufacturing license).

COMMENT: Upon closer inspection, you are probably correct in your comment, but because of the awkward drafting of the text (combining the requirements of the applicant with requirements for “all persons the applicant proposes to employ in the business,”) I believe that section 4.4.1 can be interpreted, by States so inclined, so as to conclude that “all of the persons the applicant proposes to employ” would be required to produce fingerprints and medical certificates. From a more troublesome perspective, however, it is virtually impossible to comply with this clause:

- 1) As a new business start-up, the applicant would have no way of knowing who may or may not apply for employment when the business is ready to hire.
- 2) As an ongoing business, staffing will change. The employees listed on the application would no longer be employees, at which point the business would be in violation of their application and therefore in violation of their license.

Compliance would require creation of an additional “government approval process” for the hire of every employee (with resulting government staffing and cost requirements, not to mention potential delays that would effectively close the business). This is another example of an ISACS that is not clearly written, which leaves the clause open to an interpretation very different than what was intended.

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

Clause 7.3 provides guidance on "post-delivery inspection." The feasibility of post-delivery inspections is demonstrated by the fact that they are carried out (the Blue Lantern Programme of the US Government is a good

example). Their benefit is clearly stated in the clause cited above — "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."

COMMENT: I think you are agreeing with the SAAMI Report's assertions, but using the Blue Lantern program as an example of how it can be done? First of all, the Blue Lantern program does not conduct long-term post-delivery inspections, which was the point of the SAAMI comments. Second, if you are going to use Blue Lantern as an example it is important to note that "Blue Lantern inquiries are not conducted randomly, but are carefully selected to identify transactions that appear most at risk for diversion or misuse." (http://pmddtc.state.gov/reports/documents/End_Use_FY2010.pdf). If the guidance is to be effective, the full program must be referenced, including the selection process and criteria used to determine inspections under the Blue Lantern program. Finally, be aware that the US General Accounting Office—the government agency established to perform unbiased evaluations of government programs—has filed negative reports on the effectiveness of the Blue Lantern program.

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

This is perhaps the clearest example of the distorted representation of ISACS that runs throughout SAAMI's report. What the module says is this:

8.6 Keeping children safe

The most effective way of keeping children safe from small arms is to ensure that small arms do not exist in the environments in which children live.

Where small arms do exist in children's environments, the most effective way of keeping children safe is to educate them about

a) the dangers of interacting with small arms; and

b) what to do if they see a small arm (immediately leave the place where the weapon is and tell a parent or other adult).

Educating children in order to keep them safe from small arms is not a one-off exercise but should be repeated and reinforced over time in order to ensure that children internalize the key messages.

NOTE For further guidance, see ISACS 06.20, Children, youth and small arms and light weapons, and ISACS 04.30, Raising awareness of the need for small arms and light weapons control.

The module also provides detailed guidance on the safe storage of small arms (clause 8.5).

COMMENT: The module says “*ensure that small arms do not exist in the environments in which children live.*” I don’t see this as a SAAMI distortion. The passage would be just as effective if it simply recommended keeping guns locked when not in use (which is guidance SAAMI has promoted for decades).

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

Incorrect. ISACS 03.30 requires that small arms licenses not be granted to children and defines "child" — in accordance with the Convention on the Rights of the Child — as anyone, "below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier." The module goes on to note that, "In certain circumstances, licensed small arms owners may be permitted to loan their weapon – temporarily, under controlled conditions and in the presence of the licence holder – to someone who is not licensed (e.g. in the context

of introducing people to hunting or sport shooting)" (clause 8.7.1).

COMMENT: The SAAMI Report's comments are accurate. If you want to point to 8.7.1, you will need to explain or define what those "certain circumstances" would be. The module is also silent on the issue of what constitutes "controlled conditions."

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

The clause cited above reads as follows:

Markings shall be applied to the component of a weapon that is most essential to its operation, i.e.

a) the frame/receiver.

In addition, markings should be applied to other essential parts of the weapon, including the

b) barrel; and

c) slide, cylinder, bolt or breech block.

The essential parts listed are not small internal parts.

COMMENT: The SAAMI Report's comments are accurate. Section 4.2.1.1.3 of module 05.30 reads: "Markings shall be applied to a component of a weapon that is essential to its operation...." NOT "most essential" as your comments contend. Subpart (d) also reads "any other part or component essential to the operation of the weapon."

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

The module cited above requires a fixed time limit of 20 years for the retention of SALW records, in accordance with the International Tracing Instrument. It further recommends that such records be kept indefinitely. The purpose of doing so, of course, is to facilitate the tracing of illicit weapons.

COMMENT: The SAAMI Report's comments are accurate. Note that SAAMI's comment is that the Module "[a]sks" that records be kept forever, which reflects the second sentence of your responding comment. Please note, in this context (and with regard to several of your responses, that if you read SAAMI's Minority Report carefully you will consistently find that we use "require" where the Module says "shall" and "ask" where the Module says "should", reflecting our understanding of the difference between "shall" and "should."

7. Requires a license for civilian possession of a small arm (ISACS 03.30, Section 8.4.1),

This is correct.

meaning that someone attending a hunting or shooting event must also have a license before they can touch or borrow another person's firearm, even if under supervision, at the event.

This is incorrect. The module notes that "In certain circumstances, licensed small arms owners may be permitted to loan their weapon – temporarily, under controlled conditions and in the presence of the licence holder – to someone who is not licensed (e.g. in the context of introducing people to hunting or sport shooting)." (clause 8.7.1)

COMMENT: The SAAMI Report's comments are accurate. See my previous comments regarding section 8.7.1. whereby the "certain circumstances" and "controlled conditions" are not defined. I must also point out that by continuing to promote the licensing of firearm owners and registration of firearms, you are ignoring the input of members of the ERG, including Professor Mauser's detailed and annotated report that showed there is no link between either licensing or registration, and levels of violence. There is no benefit and significant costs (most recently demonstrated by the Canadian experience), so these schemes should not be promoted by the ISACS.

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

The clause cited above reads as follows:

8.4.3 Waiting period

In order to minimize the risk that a small arm could be misused following its acquisition on impulse, licensing laws and regulations shall include, explicitly or implicitly, a waiting period that establishes a time lag of at least 7 days between the submission of a licence application and the granting of a license to acquire and possess a small arm.

[It should be noted that this clause is under review following feedback received during its most recent review by the Expert Reference Group]

COMMENT: The SAAMI Report's comments are accurate. Is the reason for your comment to indicate that it is under review?

9. As noted previously, requires that each small arm shall be marked five separate times during its service life (at manufacture, at import, at transfer to civilian use, at confiscation, and at deactivation) (ISACS 05.30, Section 4.1.1). How firearms that have already been heat-treated to improve durability can be marked after heat-treatment is not explained

As a rule, ISACS do not go into detail on "how" to comply with the standards, but rather limit themselves to specifying "what" is to be achieved, in order not to limit the range of possible solutions.

, nor is the benefit of marking a small arm because it is being destroyed explained.

ISACS do not require the marking of weapons earmarked for destruction (e.g. by cutting, smelting, etc.). They do require that deactivated weapons be marked in order to prove that their proper deactivation has been certified by a competent State authority.

COMMENT: You do not address the first point made in the SAAMI Report. "How" must be a consideration of any standard or guidance, lest the resulting document has no relevance to the real world. I agree with your second comments, provided that "deactivation" does not equal "destruction." Your comments still do not address the "why" issue of marking at deactivation.

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

The clause cited above provides that, "Individual rounds of small arms and light weapons ammunition MAY be marked" (emphasis added), as is the practice in some countries. Clause 5.2.3.2 provides guidance on the contents of such markings.

COMMENT: There is no clause 5.2.3.2 on Draft 3.0 of 05.30. May I assume you meant clause 4.2.3.2? Annex A also calls for microstamping of ammunition (Item A.7). First, the information that *may* be required will not fit on a case head, and will cause gun jams and a potential safety risk if marked on the case body. The "some countries" is the German police, which purchase a small quantity of "marked" ammunition from CBC, the patent holder for the marking machine. The purchases are far less than the German police total ammunition requirements. This is a good example of a localized practice, on a significantly insignificant scale, being used to justify global guidance when the result is more gun control.

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

The clause cited above specifies the barrel and slide, cylinder, bolt or breech block as the essential components to which markings should be applied.

COMMENT: The SAAMI Report's comments are accurate. The module *includes* the barrel, slide, cylinder, etc., but also states that "components that are essential to the operation" should be marked. However, marking any components other than the frame or receiver can have unintended consequences. Let me give you an example: I am currently in the process of getting a temporary firearms import permit so I can hunt in South Africa. The application form for the permit asks for the serial number of the frame AND the barrel—and further stipulates the two must be the same number. I recently had to put a new barrel on my hunting rifle (it was my first rifle—a gift when I was 11 years old). Fortunately, the US has a long and successful history of marking and tracing of firearms, and wisely recognized that only the frame or receiver be marked with the serial number. Also fortunate is that South Africa doesn't enforce that barrels must be

marked. The bottom line is—if the new barrel (made by Krieger Barrels) was marked with a serial number, and then put on my rifle receiver (made by Remington Arms) marked with its own serial number, I would not be able to get my rifle into Africa. This might sound like a trivial inconvenience, but consider that I would not go hunting if I couldn't use my own rifle, which means I would not spend my money on a labor-intensive activity that employs many people in a rural community. The local economy would be adversely impacted, and the local community would have less incentive to protect the wildlife and the ecosystem that supports hunting. If these additional markings had any positive effect on reducing violence, that would be one thing. They don't. All they do is require law enforcement to do triple the work (frame, barrel, and bolt/slide) for data entry of different parts—with an exponential increase in errors. Not only does this not help reduce violence, but it drains already over-worked law enforcement resources.

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

The clause cited above recommends that, if a weapon under manufacture is intended for use by a domestic State entity, it should be marked at the time of its manufacture with an identifier of said entity. This does not restrict the sale of weapons from private companies to State agencies.

COMMENT: I agree with your comments so long as the State entities do not require the markings as a prerequisite for the purchase from civilians or private companies (post manufacture).

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

An example is provided in the above-cited module of how markings called for by the module might actually look. As this is clearly marked as an "example," the numbers of digits provided are indicative. In the event that any State

(designated by its two-digit ISO country code) would have under its jurisdiction more than 9,999 manufacturers of SALW, it could simply add another digit to that element of the marking.

COMMENT: Even if your comments are valid, we're still left with an illustration of the extensive length of marking required to reflect all possible variables for each category entered. Also, if the intention of the guidance is as you suggest, it should be explained in greater detail.

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

Incorrect. The module cited above does not "require" gun registration. It includes it as "a course of action permissible within the limits of the document" (the ISACS definition of the word "may"). As a standard-setting organization, SAAMI is surely aware of the different meanings of the words "shall, should, may, can."

COMMENT: I agree that the "registration" provisions of section 8.7 are "may" provisions as opposed to "shall" provisions. However, it should be noted that it is not clear which "categories of small arms held by civilians" are subjected to such proposed registration. Taken together, section 8 of 03.30, draft 3.0 has numerous restrictive and/or intrusive requirements that, as a whole, are objectionable on their face. Using the term "may" does not correct the underlying fallacy. In addition, though this is more of a policy issue and subject to judgment than it is a factual error suggesting that States keep a gun registry fails to take into account the costs versus relative lack of benefit (See, for example, Canada's recent example in this regard) of such a program.

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

The above-cited module provides guidance on "border controls and law enforcement cooperation" as it relates to preventing the illicit cross-border movement of

SALW. Even regional trading blocs, such as the EU, have external borders and can reimpose internal border controls if the need arises. The module covers Regional Intelligence Liaison Offices of the World Customs Organization (clause 6.4) and underlines that integrated border management has a regional dimension (clause 11.1).

COMMENTS: The SAAMI Report's comments are accurate and follow what the module says.

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

This is a fair point. This clause will be revised in order to refer specifically to named essential components, such as frame, receiver, barrel, slide, cylinder, bolt, breech block.

COMMENTS: The SAAMI Report is accurate, and I would add any potential benefit is related to the manufacture of parts to convert semi-automatic firearms to fully automatic weapons. Marking only the frame or receiver—from the standpoint of efficient and effective law enforcement—is best accomplished by marking the one part that is essential to the assembly of the firearm—namely, the frame or receiver.

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

The size of the records maintained by licensing authorities will depend on (1) the number or manufacturers within a State's jurisdiction and (2) the amount of data maintained for each manufacturer. Clause

4.2.2.2 of the above-cited module provides guidance on the data to be maintained for each manufacturer. While these data are comprehensive, they are in no way excessive.

COMMENTS: The SAAMI Report is accurate. The fact that you have chosen to ignore SAAMI's experience and comments is part of the reason we felt compelled to write our report.

18. Calls for medical certification of the mental stability of those who wish to manufacture small arms or ammunition (ISACS 03.10, Section 4.3.4(b)) without describing by what standard such stability (the actual ISACS language is that the person be "of sound mind") is judged and without considering the costs of implementing such a provision for the hundreds of thousands of people involved in such production processes worldwide each year.

The above-cited module recommends that applicants for manufacturing licenses undergo a background check in order to ascertain, inter alia, if they are of sound mind. The method of doing so is left up to the State that chooses to apply the standard. This is in line with the approach taken throughout ISACS of specifying "what" is to be achieved without going into detail on "how" to achieve it.

COMMENTS: The SAAMI Report is accurate. The fact that you have chosen to ignore this critical issue is part of SAAMI's concerns. In fairness, it appears that, in a corporate setting, only a representative of the corporation would be required to undergo the testing. However, as the SAAMI Report points out all suppliers of all components of SALW and ammunition will number many thousands worldwide.

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

The above-cited clause has already taken this concern into account. It reads as follows:

4.7.2 Suspension

If the licensing authority has reasonable grounds to believe that the conditions of a manufacturing licence have been violated, it may suspend the licence while it conducts an investigation.

Since the manufacturer shall not be permitted to continue with manufacturing while the license is suspended, there should be a limit on the duration of the suspension of not more than 7 days, after which time the license should either be revoked or the suspension lifted.

If the licensing authority requires additional time and, consequently, a longer suspension of the license in order to complete its investigation, the manufacturer may be permitted to continue manufacturing operations, under the close supervision of the licensing authority, while the investigation continues.

COMMENTS: The SAAMI Report is accurate. The proposed language provided is already in Draft 3.0, and does not change the SAAMI position.

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

During the final review of this draft module, 4 members of the Expert Reference Group recommended that this time-period be increased to 5 years and one recommended that it be extended "up to 10 years provided the manufacturer is complying with legislation, regulation and reporting requirements." During the review, SAAMI questioned the 1 year timeframe but, unlike other reviewers, did not suggest a solution. When the module is finalized, these views will be taken into account and the timeframe revised accordingly.

COMMENTS: Good news.

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

The above-cited clause reads as follows:

Manufacturers should ensure that all employees who have access to completed, manufactured weapons or ammunition are eligible to hold a licence to possess a small arm under the relevant national law.

This recommendation refers to eligibility, not the actual possession of a license. The criteria for eligibility are given in clause 8.8.2 of ISACS 03.30 (a cross-reference will be provided) and include such basic requirements as no criminal record, no outstanding arrest warrant, not mentally unstable, not a child, etc.

COMMENTS: The SAAMI Report is accurate. Arguably, this is the same provision as what we find in the US ATF regulations (See section 478.32). I believe that this is poor drafting. If that's what they want or mean, that could be have been clearly written.

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

Misleading. ISACS do not identify pins and springs (or other such small parts) as essential components of SALW that should be marked. It identifies the barrel, slide, cylinder, bolt and breech block as essential parts that should be marked, and identifies the frame or receiver as THE essential part that shall be marked.

COMMENTS: The SAAMI Report is accurate and not at all misleading. The plain language of section 8.1 clearly states that “the offences” will apply to the “manufacture of small arms, light

weapons, *their parts, components* or ammunition....” Referring to module 05.30 again, parts and components *include* slides, breech bolts, etc. but are *not limited* to those parts and components.

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

Again, SAAMI is confusing key terms of standard-setting (shall vs. should). The above-cited clause (reproduced below) does not set a requirement ("shall"); it makes a recommendation ("should"). There is, therefore, allowance for deviation. The applicable labour standards will be provided as a normative reference when the module is finalized, following advice from the International Labour Organization. That SAAMI does not appreciate why the health and safety of workers is relevant to the manufacture of SALW and ammunition is worrying.

4.3.2 Suitable facilities and premises

Applicants [for SALW manufacturing licenses] should dispose of facilities suitable for the safe manufacture of weapons and/or ammunition, in accordance with International Labour Standards, in particular those governing occupational safety and health.

COMMENTS: The SAAMI Report accurately points out a significant concern that I think you may have missed in your response. SAAMI is not saying that International Labor Standards are without merit. What we are saying is that irrespective of the relative merits of International Labor Standards, the Module seeks to impose these by administrative fiat and thus without regard to (1) national/sovereign discussion of the matter, and (2) the fact that manufacturers in most countries are likely to have no idea what is meant by International Labor Standards, nor how to get such information. The Module language also appears to assume that the international standards are superior to any given national standard and does not suggest a means of reconciling

differences between the two, defaulting only to the international standard in the event of a conflict. Ignoring, for a moment, the breach of national sovereignty, you are asking a manufacturer to conform to two different sets of rules (with no guarantee that rules won't be in conflict with each other, let alone compatible). This could be remedied by calling for compliance with the workplace norms, rules, regulations, etc. of the country of manufacture but, of course, such compliance would already be a matter of law.

In conclusion, Patrick, nothing so far has convinced me or the SAAMI organization to change our fundamental conclusions. If it is welcomed, I am happy to continue to provide feedback to the modules. Based on the results of our feedback so far, it would be with the understanding that our names are not to be associated with ISACS.

Respectfully,

Rick

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